

1944 Supplement
To
Mason's Minnesota Statutes, 1927
and
Mason's 1940 Supplement

Containing the text of the acts of the 1941 and 1943 Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with Law Review Articles and digest of all common law decisions.

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the aircraft causing the injury or damage to the extent of such injury or damage caused by the aircraft or objects falling from it.

Subd. 5. The liability of the owner of one aircraft to the owner of another aircraft, or to pilots or passengers or other persons on either aircraft, for damages caused by collision on land or in the air shall be determined by the rules of law applicable to torts occurring on land.

Subd. 6. All crimes, torts, and other wrongs committed by or against a pilot, passenger or other person while in flight over this state shall be governed by the laws of this state; and the question whether damage occasioned by or to an aircraft while in flight over this state constitutes a tort, crime, or other wrong by or against the owner of such aircraft shall be determined by the laws of this state.

Subd. 7. All contractual and other legal relations entered into by pilots, passengers, or other persons while in flight over this state shall have the same effect as if entered into on the land or water beneath. (Act Apr. 24, 1943, c. 653, §20.) [360.032]

5494-145. Provisions severable.—It is the intent of the legislature that the provisions of this act shall be severable with respect to the effect of a declaration of invalidity of any provision or application thereof. (Act Apr. 24, 1943, c. 653, §21.)

5494-146. Interpretation and construction.—This act shall be so interpreted and construed as to make uniform so far as possible the laws and regulations of this state and other states and the Federal Government, having to do with the subject of Aeronautics. (Act Apr. 24, 1943, c. 653, §22.)

5494-147. May be cited as Aeronautics Code.—This act may be cited as the "Aeronautics Code". (Act Apr. 24, 1943, c. 653, §23.) [360.033]

5494-148. Laws repealed.—Mason's Minnesota Statutes of 1927, Sections 1626-1 to 1626-3 both inclusive, Sections 1626-4 and 1626-5 as amended by Laws of 1929, Chapter 379, Section 5, Sections 1626-6 and 1626-7, Sections 1627 to 1630 both inclusive, 5494-1 to 5494-6 both inclusive, and Mason's Supplement 1940, Sections 1263-1 to 1263-3 both inclusive, Sections 1626-8 to 1626-19 both inclusive, Sections 5494-7 to 5494-15; Section 5494-16 as amended by Laws 1941, Chapter 386; Sections 5494-17 to 5494-36 both inclusive, Sections 5494-36½, Section 5494-36½a to 5494-36½w, Sections 5494-37, 5494-38 as amended by Laws 1941, Chapter 264, and Sections 5494-39 to 5494-47 both inclusive, are hereby expressly repealed. Act Apr. 24, 1943, c. 653, §24.)

CHAPTER 32

Preservation of Game and Fish

PART I.—TITLE TO WILD ANIMALS: TAKING: TRANSPORTATION

5495. Title to wild animals—Taking.

Laws 1943, c. 105, creates a commission to revise and codify the laws of the state relating to wild animals, and to the protection, preservation and propagation thereof. The commission has authority to hold hearing and take testimony.

In certain cases a state may impose upon nonresidents a larger license fee than it imposes upon residents, as in the case of hunting, fishing, and fur buyer's licenses. *State v. Starkweather*, 214M232, 7NW(2d)747. See Dun. Dig. 3932.

Statutes regulating the taking of wild life are within the police power of the state. *Id.*

Hunting on waters owned by the United States is permissible only under agreement or authority of the owner. *Op. Atty. Gen.* (240r), Aug. 17, 1943.

5496. Ownership in state.

Wild life is a subject of ownership only when reduced to possession. *Minnesota Valley Gun Club v. N.*, 207M 126, 290NW222. See Dun. Dig. 3934.

While title to wild life is in the state as trustee, owner of land has a qualified property interest in that it is he who has exclusive right to reduce game to possession. *Id.* See Dun. Dig. 3933.

Game, fish, and fur-bearing animals when not reduced to possession belong to the state, as a part of its natural resources, which it can protect and save for its own citizens. *State v. Starkweather*, 214M232, 7NW(2d)747. See Dun. Dig. 3933.

Since the state is the owner, in trust for the people, of all wild animals, it may impose upon fur dealers reasonable terms and conditions to protect and preserve its interest in this resource. *State v. Stein*, 215M308, 9NW (2d)763. See Dun. Dig. 3931a-3940a.

Indians may not hunt in violation of game and fish laws on certain lands acquired from the state by the United States. *Op. Atty. Gen.* (240r), Aug. 17, 1943.

5497. Taking of wild animals restricted.

Harboring wolves in an enclosure without any permit is not an offense against game laws, provided they do not propagate, but harboring of wolves might disqualify an individual from collecting bounties on others which he killed. *Op. Atty. Gen.* (210D-8), Aug. 15, 1941.

Statute prohibiting sale of certain fish or wild animals, even though they may have been taken in another country where sale is not prohibited, is constitutional. *Op. Atty. Gen.*, (211a-9), June 17, 1941.

Statute prohibits shipment by non-resident, whether licensed or not, from Minnesota of any fish caught outside of Minnesota, even those caught out of the state under a Canada license. *Op. Atty. Gen.* (211a-10), July 10, 1942.

Fish buyer's license is required to authorize purchase of fish roe from Lake Superior commercial fishermen. *Op. Atty. Gen.* (209b), Dec. 5, 1942.

Domestic pigeons and doves are not included within meaning of wild animals. *Op. Atty. Gen.* (210d), Dec. 24, 1942.

Carcass of raccoon and beaver may not be sold, but carcass of muskrats may be sold. *Op. Atty. Gen.* (210d-6), Jan. 18, 1943.

Unprotected animals such as bears may be restrained without permit, provided they are not kept for breeding purposes, and may be bought and sold. *Op. Atty. Gen.* (210d-1), June 29, 1943.

5498. Manner of taking game.

Removal of forearm of shot gun and leaving it partially broken open is not "taking apart". *Op. Atty. Gen.*, (208e-3), Oct. 20, 1939.

A "case" means a case especially designed to contain a gun, and a mere wrapping of cloth, clothing or articles does not comply with statute. *Op. Atty. Gen.*, (208e-3), Oct. 24, 1939.

A muskrat trapper who goes out half an hour before opening time of opening day of season, digs a hole in several muskrat houses and leaves unset trap there for apparent purpose of claiming possession ahead of others when season opens, does not violate §5542, but may be prosecuted under §5498. *Op. Atty. Gen.*, (210a-5), May 16, 1940.

Words "in a motor vehicle" includes persons standing or sitting on running boards or fenders of a car, or on platform of a truck. *Op. Atty. Gen.* (201a-1), Oct. 31, 1941.

5498-1. Use of certain ammunition prohibited.—It shall be unlawful for any person to hunt, pursue, shoot or kill any of the big game animals of this state with a rifle or firearm which discharges a projectile the diameter of which projectile is less than twenty-three one hundredths of an inch; and provided further, that it shall be unlawful for any person to hunt, pursue, shoot or kill any of the big game animals of this state except with cartridges not less than one and three-fourths inches in length and containing a soft point or expanding bullet, said measurement to include the cartridge or shell and the bullet seated in the usual manner; and provided further, that nothing herein contained shall prohibit the use of cartridges less than one and three-fourths inches in length provided such cartridges are at least .35 caliber or larger. (Act Apr. 24, 1941, c. 412, §1.) [100.053(1)]

5498-2. Same—Shot or buckshot.—It shall be unlawful for any person to hunt, pursue, shoot or kill any of the big game animals of this state with cartridges containing shot or buck shot. (Act Apr. 24, 1941, c. 412, §2.)
[100.053(2)]

5498-3. Violation of act.—Any person convicted of a violation of any of the provisions of this act shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than \$50.00 or more than \$100.00, or, in the discretion of the court, by imprisonment in the county jail for a period of not less than 30 days or more than three months. (Act Apr. 24, 1941, c. 412, §3.)
[100.053(3)]

5498-4. Hunters and trappers to wear red caps and coats.—No person shall hunt, trap, pursue, or assist in hunting, trapping or pursuing any of the protected wild animals of this state in any territory open for the taking of deer with the use of firearms during such open season, unless at least fifty percent of the visible portion of his hunting cap shall be red, and at least fifty per cent of his jacket, excluding the sleeves, shall be red or covered with red. (Act Apr. 24, 1943, c. 616, §1.)
[100.051]

5498-5. Violation to void licenses.—The hunting or trapping license of any person violating the provisions of this act shall be null and void, and no such licenses shall be issued to any person found violating these provisions for a period of one year from the date of such violation. It shall be the duty of any state game warden or other officer authorized to inspect licenses, to take the licenses of any offender of the provisions hereof into his possession, mark them "void", together with the date of the offense, and turn them in to the director of game and fish. There shall be no other penalty imposed for violation hereof. (Act Apr. 24, 1943, c. 616, §2.)
[100.051]

5500. Limits of game and fish—Wanton waste.
There now exists no aggregate daily bag limit for game birds, except as may result from possession limits and season limits. Op. Atty. Gen. (210D-7), Sept. 17, 1941.

5501. Entering growing grain—Trespassing.—No person shall at any time enter into any growing grain or standing grain not his own with intent to take or kill any wild animal, nor permit any dog with which he shall be hunting to do so for such purpose, without permission from the owner or person in charge thereof. No person shall at any time enter upon any land not his own with intent to take or kill any wild animals after being notified by the owner or occupant thereof not to do so. Such notice may be given orally or by posting written or printed notices to that effect, in the English language, in conspicuous places on the land so protected. No person, while hunting, fishing, or trapping wild animals shall enter or leave the lands of another or pass from one portion of such lands to another portion through a closed gate without returning said gate to its original position, nor shall any such person cut any wire or tear down or destroy any fence. (As amended Mar. 18, 1943, c. 150, §1.)

One passing over posted land to a meandered lake with no approach to trap on public water is guilty of "trespass" under this section. Op. Atty. Gen., Dec. 5, 1941.

If deer was legally shot elsewhere and fell upon posted land, and owner of land forbids shooter to remove it, this section does not apply and claim of right to enter upon land for purpose of removing deer is a matter of civil controversy. Op. Atty. Gen. (210d-2), Dec. 1, 1942. Where a deer was killed upon posted land and owner of land forbids shooter to remove it, deer belongs to state and not owner of land. Id.

General penalty provision of game and fish code is applicable to violations of this section. Op. Atty. Gen. (208g), Oct. 19, 1943.

Right of riparian owners to prohibit trapping in pools formed by high water on Lake of the Woods discussed. Op. Atty. Gen., Nov. 29, 1943.

Right of the public to trap on inland meandered lakes which have been dry and refilled with water. Op. Atty. Gen. (210A-5), Dec. 10, 1943.

Hay and pasture leases did not confer exclusive hunting or trapping privileges on demised trust fund in lands. Op. Atty. Gen. (700D-18), Dec. 28, 1943.

5501-1. Same—Violation a misdemeanor.—Violation of any of the provisions of this act shall constitute a misdemeanor, punishable by a fine of not less than \$10 nor more than \$100, or imprisonment in the county jail for not less than 30 nor more than 90 days. (Act Mar. 18, 1943, c. 150, §2.)

5501-2. Same—Game warden and officers to enforce provisions.—The state game wardens, state refuge patrolmen, constables, and all other peace officers are hereby required and it is made their duty to enforce the provisions of this act. (Act Mar. 18, 1943, c. 150, §3.)
[100.02(2)]

5502. Cold storage in warehouses; etc.

Limit of pheasants taken in another state under a non-resident license and Minnesota limit taken under state license may be kept together in storage if properly tagged. Op. Atty. Gen. (210D-7), Oct. 3, 1941.

5505. Transportation and exportation of salable fish and game.—Subdivision 1. Any person may transport within this state or from a point within to a point without this state during the open season any wild animals or parts thereof, which may be lawfully sold, except as specifically prohibited by this chapter.

Subdivision 2. Any person, except agents or employees of a common carrier while engaged in the performance of their duties, may transport in a vehicle, boat, or other means of transportation otherwise than by common carrier, or may carry with him as baggage on a common carrier to any place within the state any wild animals, including fish, which may be legally in his possession, and common carriers are hereby permitted to carry such wild animals as baggage within the limits herein prescribed. If any such wild animal is carried as baggage and is contained in any package, sack, crate or other container there shall be attached to the outside thereof a tag signed by the licensee, written or printed, showing the name and address and license number of such licensee and the number and kind of wild animals or parts thereof contained in the same.

Subdivision 3. Any resident of this state may ship or transport by common carrier to any point in the county in which he resides, consigned to himself only, during any one open season not more than 45 game birds, of which not more than 36 may be water fowl, rails, or shore birds, and not more than nine may be upland game birds; provided, that not more than three shipments may be made in any one season and no shipment shall contain more than 12 waterfowl, rails or shore birds of all kinds in the aggregate, nor more than three upland game birds of all kinds in the aggregate; and any such resident may so ship or transport during any one open season one deer lawfully taken and lawfully in his possession, and may so ship or transport the head or hide of any deer lawfully taken and lawfully in his possession for mounting or tanning purposes to a point within or without this state; all subject to the provisions of General Statutes 1923, Section 5506, as amended.

Subdivision 4. Only undressed upland or migratory wild fowl may be shipped, transported or carried. "Undressed" as herein used shall mean birds with heads and feet intact, but shall not prohibit the removal of entrails and feathers other than on the head.

Subdivision 5. Any non-resident, except agents and employees of a carrier while engaged in the performance of his duties, may ship or transport in a vehicle, boat or other means of transportation or may carry with him as baggage on a common carrier or may ship or transport by common carrier consigned to himself only to any point within or without this state, in the manner provided by Mason's Minnesota Statutes of 1927, Section 5506, any wild animals including fish

lawfully taken or killed and possessed by him in this state but not to exceed during any one open season 25 game birds and one deer. Common carriers are hereby permitted to carry such wild animals as baggage.

Subdivision 6. Except as otherwise expressly provided by law, no person shall ship or transport any fish outside of this state except those which may lawfully be sold within the state.

Subdivision 7. Any variety of fish lawfully taken in commercial fishing operations in interstate or international waters may be shipped outside of this state.

Subdivision 8. **Shipments—Non-residents.**—A non-resident duly licensed to fish in this state, may, however, ship by common carrier as provided by this act to a point outside this state in any one season not to exceed 20 pounds of fish of any variety or one fish lawfully caught by him in this state, and as provided by this act; but not more than 10 pounds may be shipped on one coupon. Such non-resident, if he shall not have used the shipping privileges herein authorized, shall be authorized to transport or carry with him to any point beyond the boundaries of the state, the limit of fish which he is authorized to possess within the state.

Only undressed fish may be shipped, transported or carried. "Undressed", as herein used, shall mean fish with the heads, tails, fins, scales and skins intact, but shall not prohibit the removal of entrails and gills.

Such shipment shall be made by the licensee to himself only. (Act Apr. 26, 1941, c. 457, §1, as amended Act Mar. 10, 1943, c. 110, §1.)

Subdivision 9. A resident may ship fish lawfully taken and possessed by him from one point in the state to another provided such shipment must be made to the person taking such fish.

Subdivision 10. No person shall at any time ship or transport a greater number of any kind of wild animals than he is permitted by law to have in possession at such time. All wild animals under the control of any person, whether actually in his personal custody or in transit or at their destination after shipment, or otherwise, shall be deemed to be in the possession of such person for the purposes of this action and of any other law relating to wild animals. (As amended Act Apr. 26, 1941, c. 457, §1; Mar. 10, 1943, c. 110, §1.)

Prohibition against shipment or transportation of undressed fish is applicable to non-residents only. Op. Atty. Gen., (211a-10), June 4, 1941.

Non-residents may ship only undressed bullheads. Op. Atty. Gen., (211c-2), June 4, 1941.

Transportation by unlicensed donee of game birds. Op. Atty. Gen. (210d-7), Oct. 16, 1941.

Statute prohibits shipment by non-resident, whether licensed or not, from Minnesota of any fish caught outside of Minnesota, even those caught out of the state under a Canada license. Op. Atty. Gen. (211a-10), July 10, 1942.

Subd. 4.

Subsection is not applicable to upland and migratory wild fowl while stored in public or private cold storage warehouses, plants, ice houses, hotels, restaurants and so-called storage plants or buildings actually used for storage of dressed meats, game or fish. Op. Atty. Gen. (210d-7), Oct. 14, 1941.

Subd. 8.

Amended. Laws 1943, c. 110. See above text. Non-residents who ship fish by common carrier regardless of how small an amount may not transport fish home. Op. Atty. Gen. (211a-10), July 2, 1943.

5508. Hunting by aliens.

An alien who has applied for citizenship, and her minor child, pending application for citizenship, are entitled to trapping licenses. Op. Atty. Gen. (209(G)), Dec. 10, 1943.

5510. Penalties for violation.

Penal provision applies to requirement that fur dealers keep complete record of transactions in raw furs. State v. Stefn, 215M308, 9NW(2d)763. See Dun. Dig. 3931a-3940a.

Each animal or bird unlawfully sold constitutes a separate offense and supports a separate charge, even though all animals concerned were handled in one transaction, and result of trial upon first charge is not controlling as to others. Op. Atty. Gen. (2089-13), Oct. 15, 1942.

General penalty provision is applicable to violations of §5501. Op. Atty. Gen. (208g), Oct. 19, 1943.

(1). Complaint alleging unlawful possession of three beaver is defective for duplicity, since each animal constitutes a separate offense. Op. Atty. Gen. (208g-11), May 24, 1943. Op. Atty. Gen., (210a-4), Oct. 25, 1939; note under §5551.

PART II.—LICENSES

5514. Hunting.

Resident fishing license may be issued to persons in military service or civilian conservation corps stationed in Minnesota, or to employees of game and fish or conservation departments of other states. Laws 1941, c. 302.

Landowner may not trap without a license upon a meandered lake, even though it is entirely surrounded by land owned or rented by him. Op. Atty. Gen. (209(G)), Dec. 10, 1943.

An alien is not eligible to trap upon his own land unless he is also eligible to a resident license. Op. Atty. Gen. (209(G)), Dec. 10, 1943.

5515. Hunting, trapping or fishing licenses, etc.

A non-resident may not trap fox with or without a license. Op. Atty. Gen. (210b-3), Jan. 18, 1943.

Trapping license for taking fox is not required. Op. Atty. Gen. (210b-3), Jan. 18, 1943.

A resident alien is not entitled to a license to trap as a non-resident, but must obtain a license as a resident alien who has properly applied for citizenship. Op. Atty. Gen. (209(G)), Dec. 10, 1943.

5533. Possession of deer, moose and game birds; etc.

Limit of pheasants taken in another state under a non-resident license and Minnesota limit taken under state license may be kept together in storage if properly tagged. Op. Atty. Gen. (210D-7), Oct. 3, 1941.

5534. Permits to keep game after season closes.—

Any person desiring to retain possession of deer, moose or game birds or game fish, after the close of the season therefor, shall surrender the license under which such deer, moose or game birds or game fish were taken, to the commissioner or game warden, and he, if satisfied that such application and surrender is made in good faith, and that the applicant is a resident of this state, shall cause distinctive tags or seals to be affixed to each deer, moose, game birds, or game fish or parts thereof lawfully in possession of the applicant, or he shall issue a written permit to such applicant to keep and use such deer, moose, game birds, game fish or part thereof, and thereupon the applicant shall be entitled to retain possession of the game until consumed; provided, no such wild animals may be retained under a permit after the last day of April in the year following that in which they were taken or killed, except in such years when federal or state meat rationing restrictions may be imposed due to emergency conditions, in which years such wild animals may be retained under such permits until June 30th of the year following that in which they were taken or killed. Wild animals, lawfully taken and had in possession outside this state, may be brought or shipped into this state and had in possession during the periods provided above for the keeping of wild animals taken in this state upon proof that they have been so lawfully taken, provided retaining tags herein provided for are attached thereto. (As amended Act Feb. 20, 1943, c. 58, §1.)

Limit of pheasants taken in another state under a non-resident license and Minnesota limit taken under state license may be kept together in storage if properly tagged. Op. Atty. Gen. (210D-7), Oct. 3, 1941.

Metal locking seal should remain upon a deer until five days after close of season, unless animal has been consumed prior thereto, and upon application for retaining tags, seal may be surrendered as a part of the license. Op. Atty. Gen. (210d-2), Dec. 16, 1942.

5535. Not to be shipped or sold.

Transportation by unlicensed donee of game birds. Op. Atty. Gen. (210d-7), Oct. 16, 1941.

5536-1. Game and fish licenses.—No person shall kill, take or attempt to take in any manner any protected wild animal, or engage in hunting, pursuing, or trapping for the purpose of taking any protected wild quadruped or bird, or engage in fishing for the purpose of taking any game fish, or engage in selling bait to be used for fishing, without first obtaining a license from the director of game and fish so to do,

as provided by this act unless otherwise specifically permitted by law. Residents of the state shall be required to procure hunting licenses at the age of 16 years for the purpose of hunting protected wild animals or game birds and a resident of the state shall be required to procure a fishing license at the age of 18 years for the purpose of fishing. Non-residents of the state under 16 years of age may take fish without procuring a license, but may not transport or ship any fish out of the state without procuring a license, provided, that no non-resident under 16 years of age may fish without a non-resident fishing license unless his or her parent or guardian shall have obtained and have in his or her possession such non-resident fishing license. No trapping license, whitefish netting or inland herring netting license shall be issued to any non-resident of the state. All licenses shall be issued for the calendar year, and no reduction in fees shall be made for fractions of a year. No license to hunt deer or to trap beaver shall be issued to any person after the third day of any open season provided for that year. Only one license of each kind shall be issued to any one person in any calendar year. No license shall be transferable. (As amended Mar. 27, 1943, c. 207, §1.)

Non-resident under 16 must obtain fishing license unless accompanied by parents or legal guardian. Op. Atty. Gen., (209h), June 17, 1941.

No non-resident herring license in Lake Superior may be issued for a period of less than a year. Op. Atty. Gen. (209b), Dec. 8, 1941.

Minnesota residents obtaining Wisconsin non-resident angling licenses are privileged to fish from track to track in the Mississippi River under commissioner's Order No. 1022, without obtaining a Minnesota license. Op. Atty. Gen. (209h), May 21, 1943.

Sale of deer licenses need not be suspended three days after the bow and arrow deer season, prohibition of Laws 1943, c. 207, being applicable only to the regular open season for taking deer. Op. Atty. Gen. (210d-2), July 28, 1943.

Deer hunting license with seal and coupons must be obtained by youths under sixteen who desire to possess or transport deer killed by them. Op. Atty. Gen. (210d-2), Oct. 11, 1943.

A resident alien is not entitled to a license to trap as a non-resident, but must obtain a license as a resident alien who has properly applied for citizenship. Op. Atty. Gen. (209(G)), Dec. 10, 1943.

5536-1a. Persons on leave or furlough from military duty may hunt or fish without license.—All resident men and women in any of the military or naval forces of the United States, or in any reserve or component of the military or naval forces now or hereafter organized, who are stationed outside of the state of Minnesota and are within the state upon regularly granted leave or furlough, may hunt and fish at such times in a lawful manner without having procured a license so to do, but must carry on their persons in lieu of the license required of other residents, their official leave or furlough papers. (Act Feb. 18, 1943, c. 42, §1.)

[98:05(7)]

5536-1b. Must have either license or official leave or furlough papers.—Any act requiring a license to hunt or fish performed by such persons without either having a license or official leave or furlough papers upon the person performing such an act, shall constitute a misdemeanor. (Act of Feb. 18, 1943, c. 42, §2.)

[98:05(7)]

5536-2. Kind of licenses and fees therefor.

(A) * * * * *

(B) The term "big game" includes deer, moose, elk, and caribou, and the term "small game" includes all other protected wild quadrupeds and wild birds. (As amended Act Feb. 25, 1943, c. 63, §1.)

(C) * * * * *

(D) * * * * *

Resident fishing license \$1.00, and combination license for husband and wife \$1.50. Laws 1941, c. 467.

Where a man residing in Texas entered employment of United States Government and was sent to Hawaiian Islands, and wife left Texas and established a residence in Minnesota for more than six months, whether husband is a resident of Minnesota while on leave of ab-

sence in Minnesota is a question of fact. Op. Atty. Gen. (209h), Aug. 11, 1942.

Unprotected animals such as bears may be restrained without permit, provided they are not kept for breeding purposes, and may be bought and sold. Op. Atty. Gen. (210d-1), June 29, 1943.

5536-3. Hunting and trapping licenses.—Licenses shall be issued as follows:

Hunting or trapping licenses for residents of the state, by the county auditor of the county in which the applicant resides or by any agent of such auditor, or any agent appointed by the director.

Hunting licenses for non-residents of the state, by the director or any agent of the director outside of the state, or by any county auditor in the state, or his agent.

Angling licenses for residents of the state, by the county auditor of the county in which the applicant resides, or by any agent of such auditor or any agent appointed by the director of game and fish.

Angling licenses for non-residents of the state, by the director or any agent of the director outside the state, or by any county auditor of the state, or his agent.

The director may appoint agents to issue non-resident licenses of any kind outside of the state. Such appointments shall be in writing and a record thereof shall be kept by the director. The director may revoke any such appointment at any time. The director may require any agent appointed by him to furnish a bond to the state, to be approved by the director and filed in his office, in such sum as the director may prescribe, at least equal to the total estimated amount of license fees and unsold licenses which will be in the hands of such agent at any one time, conditioned to secure the accounting by such agent for all license blanks furnished to and licenses issued by him and the payment by him according to law of all money received by him as fees for such licenses and the compliance by him with all the provisions of law relating to the issuance of such licenses. The director may require a like bond of any county auditor if, in the opinion of the director, his official bond is not sufficient for the purposes hereinbefore specified. The director of game and fish may in his discretion sell books of resident angling, large or small game hunting, or trapping licenses for cash to any agent appointed by him anywhere within the state. All such license blanks shall be paid for at the time of purchase at a discount of eight per cent from the price established by law, and may be sold only to residents of the state living in counties other than the county in which the agent is appointed: In selling such licenses, such person shall be deemed to act in the capacity of agent of the director of game and fish and shall at the end of each calendar month make a report to said director, stating the serial number of each license sold and the name and address of the purchasers thereof. Any such agent may at any time within 90 days of the date of purchase, but not later than December 1st of the same year, return any such blanks to the director and shall thereupon be reimbursed for each unused license blank. The proceeds from such sales shall be paid in to the state treasury and credited in accordance with the laws governing the crediting of receipts from the sale of resident fishing licenses. No such licenses shall be sold by such agents to any applicant not personally known to the agent making the sale, except upon production by the applicant of documentary evidence definitely establishing the residence of the applicant. Any document issued by any city, county or state official for the current year, showing the residence of the applicant, shall be deemed to comply with this requirement.

Every county auditor may appoint agents to issue within his county such licenses as such agents are authorized to issue. He shall if possible appoint at least one such agent in every city and village of his county outside of the county seat and at any other

place in the county which may be designated by the director and may appoint such other agents anywhere in the county as he deems necessary for the convenience of the public in obtaining licenses. Such appointments shall be in writing and a record thereof shall be kept by the auditor. Upon making any such appointment the auditor shall forthwith notify the director of the name and address of the appointee. The auditor may revoke any such appointment at any time, and shall revoke any such appointment upon his own motion or when demanded by the director whenever such agent shall violate any provision of the laws relating to the issuance of such licenses, or shall fail to give proper attention to the issuance thereof, or shall fail to account promptly for unsold licenses or license fees. The county auditor shall be responsible for all license blanks issued and license fees received by his agents, and such agents shall be responsible to the auditor therefor. The auditor may require any such agent to furnish a bond to the auditor, in such sum as the auditor may prescribe, to be approved by the auditor and filed in his office, conditioned in like manner as the bonds to be furnished by agents of the director as hereinbefore provided. All license fees received by such agents shall be deemed public moneys of the state, and such agents shall be amenable to all penalties provided by law relating to such moneys or to the issuance of such licenses. (As amended Act Apr. 18, 1941, c. 301, §1; Act Feb. 18, 1943, c. 39, §1.)

Although county auditor cannot appoint agents for points outside county, director of game and fish may appoint agents to sell fishing licenses to non-residents of county in which those agents are limited. Op. Atty. Gen. (209), Apr. 27, 1942.

Agents may not be selected and appointed in adjoining counties in trade centers for large areas within county. Id.

The county auditor may not refuse to appoint an agent for handling hunting and fishing licenses where applicant tenders in advance fee required as prescribed by law for reasons personal to the county auditor or because he does not believe applicant would be a satisfactory agent, but after such agency has been established and agent fails to conform with provisions of agency, then agency may be treated as breach and auditor is not required thereafter to continue the relationship. Op. Atty. Gen. (209), Apr. 28, 1942.

Director of game and fish is not authorized to pay premiums on bonds of agents for sale of licenses, including county auditors. Op. Atty. Gen. (209), Apr. 30, 1942.

County auditor of Hennepin County is exclusive agent for sale of fishing licenses to residents of that county, but he may appoint sub-agents, and commissioner of conservation may appoint agents throughout the state for the sale of such licenses to persons who are not residents of the county in which the agent is appointed, and there is no reason why the same person should not be appointed by both to sell fishing licenses at the Sportsmen's Show in Minneapolis. Op. Atty. Gen. (211b-5), Apr. 22, 1943.

5536-5. Same—Applications for licenses; etc.

It is necessary for both husband and wife to appear before county auditor or agent issuing combination license. Op. Atty. Gen., (209), May 13, 1941.

5536-7. County auditor to deposit money with county treasurer.—Every county auditor shall promptly deposit with the county treasurer all moneys received by the auditor either directly or through his agents for license fees, and the treasurer shall make a record thereof and keep the same as other public funds. On or before the fifteenth of each month the county auditor shall make a written report to the director of game and fish for the preceding calendar month, stating the total number and the serial numbers of each kind of licenses sold, the amount of fees received for each kind of license, and the total amount received. He shall transmit to the director of game and fish with such report his warrant on the county treasurer in favor of the director of game and fish, or the county treasurer's check in payment of such warrant, for 90 per cent of all license fees received during such preceding calendar month by direct sale to licensees and all of the moneys received by sale to agents. Thereupon the county auditor shall be entitled to 10% of the fees derived from sale of licenses sold by him or his agents; or 2% of the fees for li-

censes sold for cash and resale, as hereinafter provided, as his compensation and may draw his warrant to himself upon the county treasurer in payment thereof. The county auditor shall pay his agents 5% of the value of the licenses sold by such agent, as his compensation. On or before the tenth of each month every agent of the director of game and fish shall make a written report to the director of game and fish for the preceding calendar month, containing the same information as hereinbefore prescribed for reports by county auditors, and shall with such report transmit to the director of game and fish 90 per cent of all license fees received during the preceding calendar month whereupon such agent shall be entitled to retain the remaining ten per cent of such fees as his compensation. The director of game and fish may also require any agent appointed by him to account to him for licenses and license fees at such other times as he shall direct. All moneys received by the director of game and fish for license fees, either directly or through county auditors or agents, shall be promptly remitted by the director of game and fish to the state treasurer, who shall credit the same to a special fund known as the game and fish fund, and all of said moneys are hereby appropriated for the maintenance and conduct of the activities of the office of director of game and fish, as provided by law.

Any resident of a county who shall apply to the county auditor of his county for hunting or fishing license blanks for resale may purchase such license blanks from such county auditor, and if such license blanks shall be purchased in groups of not less than ten non-resident license blanks and 25 resident license blanks which he is authorized to sell he shall be entitled to a discount of 8 per cent from the price established by law. All such license blanks shall be paid for at the time of purchase. In selling such licenses, such person shall be deemed to act in the capacity of agent of the county auditor, and shall at the end of each calendar month make a report of such county auditor stating the serial number of each license sold and the name and address of the purchaser thereof. Any such resident of a county who shall purchase for resale not less than ten non-resident license blanks and 25 resident blanks may at any time within 90 days of the date of purchase but not later than December 1st of the same year return any such blanks to the county auditor, and shall thereupon be reimbursed for such unused license blanks at the price established by law, less 8 per cent. All moneys received by the county auditor where cash payment has been made in advance by such persons shall be deposited by the county auditor with the county treasurer and such treasurer shall deposit such amounts in a fund known as a "Game and Fish Reserve Fund." On or before the 15th day of each month the county auditor shall transfer from the "Game and Fish Reserve Fund" to the regular Game and Fish Fund, moneys sufficient to cover licenses sold by said agents during the preceding calendar month. The county auditor may draw his warrant upon the county treasurer in an amount or amounts necessary to reimburse any purchaser of licenses for resale, for all unsold license blanks returned to him in accordance with the provisions of this act. Said warrant or warrants shall be drawn upon the fund known as the Game and Fish Reserve Fund.

Provided, further, that any license blanks delivered to county auditors which have not been returned to the director of game and fish on or before the expiration of 90 days from the close of the calendar year for which said licenses were prepared, shall be conclusively presumed to have been sold and the said county auditor shall be held strictly responsible for the net return due therefrom.

Provided, however, the provisions of this act shall not be construed to in any way alter or repeal the provisions of Chapter 69, Laws of 1929, and Chapter 341, Laws of 1929 (s. s. 997-3, 997-4), nor any law

now or hereafter enacted wherein provision is made that all fees collected by county officials in certain counties be paid into the county treasury. (As amended Act Apr. 19, 1941, c. 317, §1.)

Where credit is given on a license fee to extent of amount previously paid for a license issued for same period under a prior law, conferring same privileges, county auditors are not entitled to commission on both original payment and full amount of second license including amount of credit given for original. Op. Atty. Gen. (209C), Jan. 17, 1942.

The county auditor may not refuse to appoint an agent for handling hunting and fishing licenses where applicant tenders in advance fee required as prescribed by law for reasons personal to the county auditor or because he does not believe applicant would be a satisfactory agent, but after such agency has been established and agent fails to conform with provisions of agency, then agency may be treated as breach and auditor is not required thereafter to continue the relationship. Op. Atty. Gen. (209) Apr. 28 1942.

County auditor cannot allow an applicant for license blank less of a discount than is directed by law, and cannot allow a discount where less than required number are purchased by agent, except in those counties where auditor is personally entitled to full ten percent commission and it is of concern to no one what portion of it he may decide to give away. Id.

Commission for \$1.00 resident license where previous \$.50 license was credited is only \$.05. Op. Atty. Gen. (209c), Aug. 6, 1942.

5536-8. Violations of law by licensees.—Upon conviction of any person for any violation of any provision of law relating to any license issued to such person or relating to the wild animals covered by the license, this license shall immediately become null and void and no license of the same kind shall be issued to a person for a period of one year after the date of conviction. Upon conviction of any person for hunting, fishing, or trapping without a license or doing without a license any other act for which a license is required as hereinbefore provided, no license of the kind required for the doing of this act shall be issued to such person for one year after the date of conviction of the offense. Provided, that this section shall not apply to resident fishing licenses or to the taking of fish by residents by angling or spearing with or without license and provided that this exemption shall not apply to residents using dark houses with or without licenses. (As amended Act Mar. 28, 1941, c. 82, §1.)

Beaver trapping license purported to issue within one year of a conviction for unlawful possession of beaver is a nullity affording holder of license no protection. Op. Atty. Gen. (210d-1), June 1, 1943.

5536-12a. Courtesy resident licenses—Armed services.—A resident license for the taking of fish or small game may be issued by and in the discretion of the director of the division of game and fish to any soldier, sailor, marine or other person in the military service or civilian conservation corps of the United States, or to any person in any reserve or component of the military or naval forces now or hereafter organized, who has been officially transferred to and is stationed in the state of Minnesota, or to any person officially employed in the game and fish or conservation department of another state or of the United States who is in the state of Minnesota to assist, consult or cooperate with the director of game and fish or the commissioner of conservation. (Act Apr. 18, 1941, c. 302, §1; Apr. 20, 1943, c. 528, §1.) [98.05(6)]

Holders of courtesy resident license are not entitled to ship game out of the state. Op. Atty. Gen. (209h), Oct. 9, 1943.

5536-12b. Same—Persons licensed considered residents.—Any person licensed hereunder shall be deemed to be a resident within the meaning and provisions of all laws or regulations governing fish and any license issued hereunder shall be plainly marked with the words "Courtesy Resident License"; provided, further, that the director of game and fish may require the submission of certified copies of transfer orders or affidavits relative to residence intent or purpose of presence in the state or any other evidence he may deem desirable to demonstrate the

fact that the applicant for such license comes within the terms of this act. (Act Apr. 18, 1941, c. 302, §2.)

[98.05(6)]

5536-13. Fees set aside for use of Game and Fish Commissioner.

No part of 50% of money derived from hunting licenses may be used for other game and fish work than for purposes stated, such as payment of salary to individuals who do not spend all their time in either game farm or game refuge work, or used to operate refuges not owned by state. Op. Atty. Gen. (983f), June 13, 1940.

Agreement between division of game and fish of department of conservation and secretary of the interior for project under federal aid to Wild Life Restoration Act, commonly known as the Pittman-Robertson Act, require approval and signature of attorney general, commissioner of administration, and state auditor, but exercise of discretion by those officers should not conflict with federal act. Op. Atty. Gen., (983f), May 24, 1941.

5536-15a. License—Live minnows for bait.—All persons over 16 years of age taking for sale or dealing in live native minnows for bait purposes shall first procure a license so to do from the director of the division of game and fish. (Act Apr. 22, 1941, c. 364, §1.) [98.055(1)]

License must be procured by boat liverymen furnishing minnows to customers with rental of boats. Op. Atty. Gen. (211c-6), May 28, 1941.

Employees of dealers need not be individually licensed. Op. Atty. Gen., (211c-6), June 17, 1941.

Non-resident may obtain license. Id.

5536-15b. Application for license.—Application for such licenses shall be made upon forms furnished by the director and shall give the name and business address of the applicant, his age and description and such other information as the director may require. Upon receipt of any application, the director or his agent shall investigate the premises where it is proposed to keep such minnows for sale, and where such sale is made from a vehicle, all facilities used therefor. When the director or his agent shall find that such applicant is properly equipped for the retention and transportation of such minnows as is reasonably necessary to prevent undue wasteage or loss, he shall issue the license hereinafter provided, applicable to the applicant. (Act Apr. 22, 1941, c. 364, §2.) [98.055(2)]

5536-15c. Definitions.—For the purposes of this act, a "local resident minnow dealer" shall be defined as any person, firm or corporation whose place of business is of a fixed nature and who catches or buys minnows for resale at retail only. An "itinerant minnow dealer" shall include any individual, firm or corporation engaged in transporting minnows for a distance of 15 miles or more for the purpose of sale. (Act Apr. 22, 1941, c. 364, §3.) [98.055(3)]

Minnow dealers who catch and sell minnows for or to resort keepers, boat liverymen, and others within a radius of fifteen miles, in comparatively small quantities, must be classified as "local resident minnow dealers," notwithstanding some of their customers may again sell to ultimate consumer. Op. Atty. Gen., (211c-6), May 15, 1941.

Distinction between itinerant and local dealers depends on distance of transportation rather than quantity of sale. Op. Atty. Gen., (211c-6), June 17, 1941.

5536-15d. Fees.—The following fees shall be payable for licenses herein provided:

(a) Local resident minnow dealer, \$2.50;

(b) Itinerant minnow dealer, \$25.00. (Act Apr. 22, 1941, c. 364, §4.) [98.055(4)]

5536-15e. Prohibitions.—Importation of live minnows from any other state or the Dominion of Canada for bait purposes is hereby prohibited. No bait dealer shall at any time have in his possession any carp or carp minnows, nor the young of any game fish except perch. (Act Apr. 22, 1941, c. 364, §5.) [98.055(5)]

5536-15f. No other license required.—No bait dealers license other than herein provided shall be required. (Act Apr. 22, 1941, c. 364, §6.)

5536-15g. Violation; penalties.—Any violation of this act shall constitute a misdemeanor and any license issued hereunder may be revoked in the discretion of the director of game and fish upon conviction of the licensee for any violation hereof. (Act Apr. 22, 1941, c. 364, §7.) [98.055(6)]

5536-16. Resident fishing license—Combination licenses—Husband and wife.—The fee for a resident fishing license to take fish by angling, subject to all other provisions of law relating thereto, shall be one dollar, provided a combination license for husband and wife shall be issued for \$1.50. (Act Apr. 26, 1941, c. 467, §1.) [98.05]

It is necessary for both husband and wife to appear before county auditor or agent issuing combination license. Op. Atty. Gen., (209), May 19, 1941.
Angling license fees paid in by old age pensioners cannot be refunded. Op. Atty. Gen., (521), May 26, 1941.

5536-17. State fish propagation fund created—Purposes.—There is hereby created a State Fish Propagation Fund for the purpose of acquiring, creating, maintaining, improving and repairing state-owned fish hatcheries and rearing ponds and appurtenant equipment and for the purpose of making stream and lake surveys, scientific surveys relating to fishes and improving the waters of this state as a habitat for fishes. Said fund shall consist of all moneys now in the Fish Fry Fund as established by Mason's Minnesota Statutes of 1927, Section 5637, all moneys hereafter received which heretofore would have been accredited to said Fish Fry Fund, together with not less than 60 per cent of all moneys received from the resident fishing license provided for herein. The amount of said fund is hereby annually appropriated to the Game and Fish Division for Fish propagation. Not more than 40 per cent of the resident fishing license fees shall be credited to the game and fish fund as provided in the 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 5536-13. Provided, that any citizen of the State receiving old age assistance or aid for the blind, shall, upon application, be granted a gratuitous fishing license. (Act Apr. 26, 1941, c. 467, §2; Act Apr. 10, 1943, c. 392, §1.) [97.251]

Pensioners under federal Social Security Act are not recipients of "old age assistance." Op. Atty. Gen., (209j), May 6, 1941.

Status of various funds determined. Op. Atty. Gen. (9a-17), July 15, 1941.

Transfer of funds follow a reassignment of activities from one division to another. Op. Atty. Gen. (208b-4), Sept. 11, 1942.

5536-22. Field dog trials — Licenses fee. — When any field dog trials are held between April 15 and August 15, or whenever any variety of game is to be used in the holding of such trials, such license shall only be issued upon the posting of a sufficient sum of money with the director of game and fish to assure the payment by the applicant association of all necessary expenses for warden supervision at such field trial, but no payment shall be required for warden supervision, except at trials held between the above dates or at which game is to be used. (As amended Mar. 17, 1943, c. 146, §1.)

PART III.—QUADRUPEDS

5537. Open season for big game.—Deer may be taken in such areas of the state and under such restrictions as the Commissioner of Conservation may provide for a period of five days in the year 1943 the open date to be designated by the commissioner of conservation between the 10th day of November and the 26th day of November and thereafter, deer may be taken from November 15 to November 25, both inclusive, in even numbered years only, but nothing in this chapter shall be construed to permit the tak-

ing or killing of moose, elk or caribou at any time; provided, however, that in any county in this state containing not less than 90 and not more than 100 full and fractional congressional townships, in addition to the open season for deer hereinbefore provided, deer may be taken with bow and arrow only from November 1 to November 5, inclusive, in even numbered years only. Except that one antlered moose may be taken within the northwest angle state forest during such open season as may be provided in any year between October 10 to October 20, inclusive, through the issuance of orders therefor by the director of the division of game and fish, who with the approval of the commissioner of conservation shall promulgate and publish rules and regulations in keeping with the minutes and resolutions of the conservation commission prescribing the manner of taking and transporting such big game and all further provisions which are deemed necessary and pertinent thereto. The license fee for the hunting of such game in the northwest angle state forest shall be \$5.25 for residents and \$50.25 for non-residents. Each such licensee may take one antlered moose during such season as may be provided. (As amended Mar. 15, 1943, c. 119, §1.)

Size of firearms to be used in taking big game animals. Laws 1941, c. 412.

5539. Manner of taking big game.—(1). No artificial light, including automobile and motorcycle headlights and spot lights, snare, trap, set gun, swivel gun, salt lick or other device to entrap or entice deer shall be used, made or set, nor shall deer be taken by aid or use thereof. No snare for wolves or other wild quadrupeds shall be set in any runway used by deer. No such snare shall be set with a loop of greater maximum diameter than 12 inches, nor with the top of the loop higher than 24 inches above the ground. No spring pole shall be set or used with any such snare. Deer shall not be shot from any artificial scaffold, platform, or other construction higher than six feet above the ground. Deer shall not be hunted or pursued or killed with dogs or horses. Violation of any provision of this Subdivision relating to set guns or swivel guns shall be a gross misdemeanor. Violation of any provision of this Subdivision relating to artificial lights shall be a misdemeanor, and shall be punishable by a fine of not less than \$25.00 nor more than \$100.00, or by imprisonment in the county jail for not less than 30 days nor more than 90 days. Violation of any other provision of this Subdivision shall be a misdemeanor.

(2) The licensee shall, after killing a deer, and at the time the same is brought in to any hunting camp, dwelling, farmyard or other place of abode of any kind occupied over night, or in the event such deer is brought out to a road and before the same is placed upon or in any vehicle of any kind, affix to its carcass a metal locking seal between the tendon and bone of a leg of said carcass so that such seal cannot be removed without breaking the lock. Before the same is transported on any vehicle or offered for transportation coupon tag "B" of the license shall be affixed to the carcass. The metal locking seal shall bear the license number of the owner thereof and the year issued in figures, said seal to be furnished by the director of game and fish through the county auditors when licenses are sold and for which a fee of 25 cents shall be paid. (As amended Act Apr. 28, 1941, c. 482, §1; Apr. 20, 1943, c. 539, §1.)

Use of spotlight for hunting big game declared unlawful. Laws 1941, c. 498.

Metal locking seal need not be affixed to deer until it is placed upon or in vehicle which is to be used for removing it from vicinity in which it was taken to place where it is to be consumed. Op. Atty. Gen. (210d-2), Dec. 16, 1942.

Metal locking seal should remain upon a deer until five days after close of season, unless animal has been consumed prior thereto, and upon application for retaining tags, seal may be surrendered as a part of the license. Id.

Deer hunting license with seal and coupons must be obtained by youths under sixteen who desire to possess or transport deer killed by them. Op. Atty. Gen. (210d-2), Oct. 11, 1943.

5539-1. Deer may be taken with bow and arrow.—Deer may be taken in such areas of the state as may be prescribed by the commissioner of conservation with the use of a bow and arrow only from October 16 to November 1 between one-half hour before sunrise and sunset. (Act Mar. 25, 1943, c. 176, §1.) [100.043]

Sale of deer licenses need not be suspended three days after the bow and arrow deer season, prohibition of Laws 1943, c. 207, being applicable only to the regular open season for taking deer. Op. Atty. Gen. (210d-2), July 28, 1943.

5539-2. Must have big game hunting license.—No person shall hunt or pursue deer with a bow and arrow without first having obtained the regular big game hunting license. All requirements with respect to the use of seals and tags imposed by law for the hunting and possession of deer shall be complied with in respect to deer taken by bow and arrow. Provided, a non-resident bow and arrow deer hunting license with seal shall be issued for a fee of \$10.25. (Act Mar. 25, 1943, c. 176, §2.) [100.043]

5539-3. Must not carry firearms.—No person shall have in his possession or under his control any gun or firearms at any time while hunting, killing or pursuing deer with a bow and arrow. No person shall use or have in his possession or under his control while hunting deer, any poisoned arrow, arrow with explosive tip, or any bow drawn, held or released by mechanical means. Arrows used for hunting deer shall have sharpened steel broadhead blades, not less than $\frac{7}{8}$ inches in width and not more than $1\frac{1}{2}$ inches in width. (Act Mar. 25, 1943, c. 176, §3.) [100.043]

5539-4. Violation a misdemeanor.—Violation of any of the provisions of this act shall constitute a misdemeanor and be punishable by a fine of not less than \$50.00 nor more than \$100.00 or by imprisonment in a county jail for not less than 30 nor more than 90 days. (Act Mar. 25, 1943, c. 176, §4.) [100.043]

5541. Open season for certain animals—Tanning licenses.—(1) Gray and fox squirrels may be taken and possessed between October 15 and December 31 following, both inclusive. No person shall hunt, molest, or take any gray, black, red, fox, flying or other squirrel at any time within the corporate limits of any city or village or within one-quarter of a mile thereof. A person may take during the open season, not to exceed 7 gray or fox squirrels in the aggregate of all kinds in any one day and may have not to exceed 14 gray or fox squirrels in the aggregate in possession at any time.

(2). [Repealed.]

(3) Raccoon may be taken between November 1 and December 1, following, both inclusive. Raccoon may be taken at any time of day or night. Dogs may be used in taking raccoon, except in territory inhabited or frequented by deer. No person shall molest or take any raccoon in any manner in a den or hollow tree or cut down any tree inhabited or occupied by a raccoon. No trap for raccoon shall be set in or under water or in any muskrat runway.

(4) Any person desiring to retain in possession during the closed season the skins of protected fur bearing animals shall apply to the commissioner within five days after the close of the season for a permit so to do, and the commissioner or a game warden shall issue to the licensee a distinctive tag for each pelt to be retained in possession; and upon receipt thereof, the licensee shall affix one such tag to each pelt retained in possession. Such pelts lawfully tagged may be bought and sold at any time. This shall also apply

to furs taken from animals trapped or killed on land owned or occupied by the trapper.

(5) 1. Every person engaging in the business of tanning and dressing of raw furs, hides or pelts of beaver, otter, fisher, marten, muskrat, mink, skunk, deer or bear shall procure a license so to do from the director of game and fish, and for which he shall pay a fee of (\$2.00).

2. All licenses issued hereunder shall be for the calendar year and shall expire on the 31st day of December of each year. Licenses may be revoked at any time by the director of game and fish for any violation of the law relating to wild animals.

3. Every person engaged in the business of tanning and dressing of raw furs under license issued by the director of game and fish, shall report to the director of game and fish the number and kinds of raw hides or pelts of beaver and muskrat received for tanning and dressing purposes, when received and from whom, and shall keep a register of such transactions which register shall be open for inspection by the director of game and fish or his duly authorized representatives. Upon reporting to the director of game and fish of the receipt of any shipment of raw beaver or muskrat hides or pelts for the purpose of tanning and dressing, the director of game and fish or his duly authorized representative shall cause to be attached to each individual hide or pelt, an identification tag or seal, which tag or seal shall remain on such hide or pelt during all of the time such hide or pelt is in the process of tanning and dressing. The tag or seal attached by the director of game and fish or his representative shall be of such a nature as not to interfere in any way with the tanning and dressing process and shall be attached so as not to materially damage the hide or pelt to which attached. Such tags or seals shall be procured from the director of game and fish by the licensee and for which he shall pay one cent each, which tags or seals shall remain attached to such hides or pelts during all times such hides or pelts are in the possession of such tanner. All raw hides and pelts of beaver and muskrat found in any tannery, whether in the process of tanning or dressing, without having attached thereto such tags or seals as authorized by this chapter, shall be deemed contraband and subject to seizure by the director of game and fish or his duly authorized representative, and no action for damages shall be maintained against the director of game and fish or his representative for such seizure.

4. Any person violating any of the provisions of this section shall be guilty of a misdemeanor. (As amended, Act Apr. 22, 1941, c. 366, §1; Feb. 25, 1943, c. 63, §2.)

Carcass or raccoon and beaver may not be sold, but carcass of muskrats may be sold. Op. Atty. Gen. (210d-6), Jan. 18, 1943.

(2). [Repealed.]

Repealed. Laws 1943, c. 63, §2.

(4).

It is unlawful to be in possession of a mink pelt during closed season unless it is tagged. Op. Atty. Gen. (210d-3), June 19, 1942.

5542. Open season for fur bearing animals.—Mink may be taken by trapping between November 1st and February 28th following, both dates inclusive, and bought, sold and possessed at any time; provided no traps for mink shall be set in any muskrat house or runway and provided that mink may not be dug from their dens or taken with the aid of dogs. Provided, however, that mink may be taken or killed in any manner at any time by the actual occupant of any lands to which the mink so killed or taken are causing any damage or injury. Upon the killing of any such mink at any time other than during the regular season as hereinabove provided therefor, the entire carcass including hide shall be turned over and surrendered to the nearest warden or employee of the Division of Game and Fish within 24 hours of the time such animal was killed. (As amended Mar. 12, 1941, c. 60, §1; Apr. 7, 1943, c. 336, §1.)

(2) Muskrats may be taken only by trapping in such areas of the state and in such numbers and during such times in the several areas, not exceeding 30 days in the aggregate for any area between November 1 and April 30 following, both inclusive, in any year in any county, and subject to such other provisions not inconsistent with this act, as the director may by regulation from time to time prescribe according to conditions existing in the respective areas. No person shall set or use more than 50 traps for muskrats at any one time. No person shall set, visit, or remove any trap for muskrats between the hours of 8 P. M. and 6 A. M.

(3) Skunk and badger may be taken in any manner, except with the aid of dogs, between October 20 and March 1 following, both inclusive. Provided, however, that skunk and badger may be taken or killed in any manner at any time by the actual occupant of any lands to which the skunk and badger so killed or taken are causing any damage or injury. Upon the killing of any such skunk or badger at any time other than during the regular season as hereinabove provided therefor, the entire carcass including hide shall be turned over and surrendered to the nearest warden or employee of the Division of Game and Fish within 24 hours of the time such animal was killed. (As amended Mar. 12, 1941, c. 60, §1; Mar. 15, 1943, c. 125, §1.)

(4) Such animals, legally taken, may be possessed, bought and sold at any time upon compliance with all applicable provisions of law relating thereto. (As amended Act Mar. 12, 1941, c. 60, §1; Mar. 15, 1943, c. 125, §1; Apr. 7, 1943, c. 336, §1.)

War time schedule to be disregarded in respect to hours for taking game or fish where prescribed by statute. Op. Atty. Gen. (208A-3), Feb. 19, 1942.

Carcass of raccoon and beaver may not be sold but carcass of muskrats may be sold. Op. Atty. Gen. (210d-6), Jan. 18, 1943.

Places for trapping muskrats are now determined by order of the commissioner. Op. Atty. Gen. (210d-4), Nov. 29, 1943.

(1)

Amended. Laws 1943, c. 336. See above text.

It is unlawful to be in possession of a mink pelt during closed season unless it is tagged. Op. Atty. Gen. (210d-3), June 19, 1942.

(2)

A muskrat trapper who goes out half an hour before opening time of opening day of season, digs a hole in several muskrat houses and leaves unset trap there for apparent purpose of claiming possession ahead of others when season opens, does not violate §5542, but may be prosecuted under §5498. Op. Atty. Gen., (210a-5), May 16, 1940.

(3)

Amended. Laws 1943, c. 125, §1. See above text.

5542-1. Sale of certain wild animals.—Raccoon, varying hare or snow shoe rabbit and cottontail rabbits lawfully taken, killed and possessed, may be bought and sold at any time; provided that the carcasses of such animals shall not be shipped or transported outside of the state of Minnesota. (Act Feb. 18, 1943, c. 45, §1.)
[100.135]

5543. Marten, fisher, otter or beaver.—(1) No person shall take or possess marten, fisher, otter or beaver at any time, or molest or disturb any marten, fisher, otter or beaver, except as hereinafter provided. (As amended Mar. 12, 1941, c. 60, §2; Mar. 15, 1943, c. 125, §2.)

(2) Beaver may be taken only by trapping in such counties or portions of counties of the state as the commissioner shall designate for a period not exceeding 15 days between December 1st and May 1st following, both days inclusive. The commissioner of conservation, upon receipt of a license fee of \$2.50, shall issue to any person a license to take beaver, specifying therein the number of beaver that may be taken, provided that no more than ten beaver may be taken in any one season under such license.

(3) The licensee shall report, within 10 days after the close of the season for the taking of any beaver and the number of beaver so taken by him, to the commissioner, or to the game warden or war-

dens designated by the commissioner, and shall submit the skins and such other portions of all such beaver, in the manner and at the time required by order of the commissioner, to the inspection of the commissioner or warden, whereupon the commissioner or warden shall issue and affix to each skin a distinctive tag, stamp, or seal. The licensee shall pay the commissioner a fee of \$1.00 for each tag, stamp, or seal, so issued. Beaver skins so taken and tagged, stamped, or sealed may be bought, sold and transported at any time upon compliance with all applicable provisions of law relating thereto. The commissioner shall keep a record of each such tag, stamp, or seal, the number issued, to whom issued and the date of issue. Provided, however, that beaver may be taken or killed in any manner at any time by the actual occupant of any lands to which the beaver so killed or taken are causing any substantial damage or injury. Upon the killing of any such beaver at any time other than during the regular season as hereinabove provided therefor, the entire carcass including the hide shall be turned over and surrendered to the nearest warden or employee of the Division of Game and Fish within 24 hours of the time such animal was killed.

(4) Beaver may be trapped in a game refuge only by the Division of Game and Fish by persons employed so to do by the Director of the Division of Game and Fish under conditions and regulations to be prescribed by the director.

(5) Any person who shall unlawfully take, possess, transport, sell, or otherwise dispose of any beaver or any part thereof shall be guilty of a gross misdemeanor and shall, upon conviction be punished by a fine of not less than \$50 nor more than \$500, or by imprisonment in the county jail for not more than 6 months, or by both such fine and imprisonment. (As amended Act Mar. 12, 1941, c. 60, §2; Mar. 15, 1943, c. 125, §2.)

License may be issued to take beaver when causing substantial damage. Laws 1941, c. 551.

Complaint alleging unlawful possession of three beaver is defective for duplicity, since each animal constitutes a separate offense. Op. Atty. Gen. (208g-11), May 24, 1943.

Beaver trapping license purported to issue within one year of a conviction for unlawful possession of beaver is a nullity affording holder of license no protection. Op. Atty. Gen. (210d-1), June 1, 1943.

(1)

Amended. Laws 1943, c. 125, §2. See above text.

5544. Protection of homes of muskrat and beaver, etc.

Places for trapping muskrats are now determined by order of the commissioner. Op. Atty. Gen. (210d-4), Nov. 29, 1943.

5545. Animals that may be taken.—Weasels, wild cat, lynx, wolves, foxes, bears, gophers, porcupines and all other quadrupeds for which a closed season is not provided by law, may be taken either in the day time or at night and in any manner, except that poison may be used to aid in the taking thereof and steel traps may be used in the taking of bear only by permission of the director and in a manner prescribed by him. No person shall place any poison in any place inhabited or frequented by wild animals otherwise than as so permitted. Provided, the taking of bear may be prohibited in such areas of the state and during such periods as the commissioner of conservation may by order prescribe. (As amended Feb. 25, 1943, c. 63, §2.)

A non-resident may not trap fox with or without a license. Op. Atty. Gen. (210b-3), Jan. 13, 1943.

Trapping license for taking fox is not required. Op. Atty. Gen. (210b-3), Jan. 18, 1943.

Unprotected animals such as bears may be restrained without permit, provided they are not kept for breeding purposes, and may be bought and sold. Op. Atty. Gen. (210d-1), June 29, 1943.

5547. Trading in furs—Keeping record.—Nothing in this act shall be construed as prohibiting the buying, shipping or having in possession at any time, of the skins of fur-bearing animals legally killed within or without the state, and of the hides of moose

or deer legally killed within or without the state, upon proof that such furs and hides were legally taken. No person shall engage in the business of buying furs until he shall have procured a license so to do from the director of game and fish. Fees, payable to the director of game and fish for such license shall be as follows: For a local resident fur buyer's license, \$5.00; for a resident \$10.00; for a non-resident local or traveling fur buyer's license, \$200.00; for a resident wholesale fur buyer's license, \$5.00. Such fur buyer's licenses shall be issued for the calendar year and shall be revoked by the director of game and fish for any violation of the law relating to wild animals or for fraudulent practices employed in connection with the buying of furs under such license. All fur buyers shall furnish to the director of game and fish such reports as he may require for statistical purposes on blanks furnished them for this purpose, and shall keep a correct and complete book record in the English language of all transactions in the buying and selling of raw furs carried on by the licensee. Such record shall and must show from whom purchased and to whom sold giving the post-office addresses, together with the date of receipt and shipping of such furs, and a detailed account as to the number and kinds of raw furs in each shipment that is purchased or sold by them. This record shall be open for inspection by the director of game and fish, his agents or deputies at all reasonable hours. Said record shall be kept intact for a period of two years after the expiration of any license issued under the provisions of this act as relates to the transactions carried on while such license was effective. Any person applying for a fur buyer's license shall at the time of his application furnish a corporate surety bond in favor of the state in the penal sum of \$1,000.00 conditioned upon the observance of all laws of this state relating to wild animals. No beaver trapping license shall be issued to any person to whom a fur buyer's license shall have been issued and in force. For the purpose of this act a local resident fur buyer shall be defined as a person who buys or purchases furs at definitely established place of business as distinguished from an itinerant or traveling buyer. (As amended Act Apr. 24, 1941, c. 410, §1.)

Statute authorizing a foreign corporation to conduct business in Minnesota does not render corporation a "resident" within meaning of fur buyer's license act. *State v. Starkweather*, 214M232, 7NW(2d)747. See Dun. Dig. 3931a, 3940a.

Licensed fur buyers must procure new licenses from and after effective date of act increasing fees, but credit may be given for amount of fee paid for current year. Licensed fur dealers are not required to furnish a surety bond in cases where legislature made no change in fee so as to require a new license or application. *Op. Atty. Gen.* (210E-6), Oct. 7, 1941.

Any corporation or partnership firm engaged in business of buying furs must procure a license, and in addition any member or employee having authority to grade and determine purchase price of furs on behalf of a corporation or partnership must have an individual license, whether employed at a salary, on commission or any other basis of remuneration. *Op. Atty. Gen.* (209E), Jan. 9, 1942.

Each individual licensee is required to keep and maintain books and records, including employees and members of firms and corporations. *Op. Atty. Gen.* (209E), Feb. 14, 1942.

It is unlawful to be in possession of a mink pelt during closed season unless it is tagged. *Op. Atty. Gen.* (210d-3), June 19, 1942.

Carcass of raccoon and beaver may not be sold, but carcass of muskrats may be sold. *Op. Atty. Gen.* (210d-6), Jan. 18, 1943.

Subject matter of amendment by Laws 1941, c. 410, comes directly within title of original act, and hence does not violate Const. Art. 4, §27. *State v. Stein*, 9NW(2d)763. See Dun. Dig. 8918.

Check stubs with penciled notations on the backs thereof produced by fur dealer were insufficient to show compliance with requirements that he keep books and records of all transactions in buying and selling raw furs. *Id.* See Dun. Dig. 3931a-3940a.

Amendment requiring fur dealers to keep complete book records of all transactions in buying and selling raw furs is a penal statute and its provisions are mandatory and not directory, and penal provision of old law applies. *Id.* See Dun. Dig. 3931a-3940a, 8926.

Books and records kept by a fur dealer are quasi public documents, and requiring a dealer to produce them for inspection does not in effect compel him to give evidence against himself in violation of constitution. *Id.* See Dun. Dig. 10340.

Warehouses and buildings operated in the business of licensed fur dealers are subject to search without warrant. *Op. Atty. Gen.* (208h-5), May 26, 1943.

Unprotected animals such as bears may be restrained without permit, provided they are not kept for breeding purposes, and may be bought and sold. *Op. Atty. Gen.* (210d-1), June 29, 1943.

5547-2. Use of lights in hunting big game.—(1) No person, whether singly or as one of a group of persons, shall have in possession or under control unless unloaded and properly encased, or broken down any firearm or other implement whereby big game could be killed and at the same time throw or cast the rays of a spotlight, headlight or other artificial light on any highway or in any field, woodland or forest for the purpose of spotting, locating, hunting, catching, taking, killing or wounding any big game animal.

(2) No person, whether singly or as one of a group of persons, shall knowingly transport, aid, or assist in transporting any big game animal which has been killed in violation of the laws relating to game and fish. (Act Apr. 28, 1943, c. 498, §1; Apr. 20, 1943, c. 534, §1.)

[100.055]

5547-3. Violation of act—Public nuisance—Confiscation of goods.—Any person violating any of the provisions of this act shall be guilty of a gross misdemeanor and all motor vehicles, trailers, headlights, spotlights, guns and firearms or other contrivances and all paraphernalia used and possessed in violation hereof, are hereby declared to be a public nuisance and subject to seizure and confiscation in accordance with law and the provisions of this act. (Act Apr. 28, 1941, c. 498, §2.)

[100.056]

5547-4. Same—Complaint by Director of Game and Fish—Return of seized property upon acquittal—Conviction—Notice to persons claiming interest in property—Sale—Disposition of proceeds.—All motor vehicles or trailers declared to be a public nuisance under the provisions of this act, shall be seized and held subject to the order of the district court of the county in which the offense was committed and may be confiscated after conviction, if the court shall so direct. Provided, however, that the director of game and fish, his deputy or agents, prior to any order directing confiscation, shall have made and filed with the court a separate complaint against such property, describing the same and charging the use thereof in violation of the provisions of this act, specifying substantially the time and place of such unlawful use. A copy of such complaint shall be served upon the defendant or person in charge of such property at the time of seizure, if any. If the person so arrested shall be acquitted, the court shall dismiss the complaint against such property and order the same returned to the person or persons legally entitled thereto. Upon conviction of any person so arrested, the court shall issue an order directed to any person known or believed to have any right or title or interest in or lien upon any such property and to persons unknown claiming any such right, title, interest or lien, describing such property and stating that the same was seized and that a complaint against the same charging violation of the provisions of this act has been filed with the court and requiring such persons to file with the clerk of said court their answer to said complaint, setting forth any claim they may have to any right or title to or interest in or lien upon any such property within ten days after the service of such order as herein provided, and notifying them in substance that if they fail to so file their answer within said time, such property will be ordered sold by the director of game and fish or his agents and the proceeds of such sale paid in to the state treasury and credited to the

game and fish fund. The court shall cause said order to be served upon any such person known or believed to have any such right, title, interest or lien as in the case of a summons in a civil action and upon unknown persons by publication as provided for service of summons in a civil action. If no answer is filed as and within the time prescribed, the court shall, upon affidavit by the clerk of said court being filed in his office setting forth such fact, order such property sold by the director of game and fish or his agents and the proceeds of such sale, after deducting the expense of keeping the property and fees and costs of sale, paid in to the state treasury and credited to the game and fish fund. If answer is filed as and within the time herein provided, the court shall fix a time for hearing which shall be not less than ten nor more than 30 days after the time for filing answer expires. At the time so fixed for hearing, unless continued for cause, the matter shall be heard and determined by the court without a jury as other civil actions. If the court shall find that said property or any part thereof was used in violation of the provisions of this act, he shall order the property so unlawfully used, sold as herein provided unless the owner shall show to the satisfaction of the court that he had no notice or knowledge or reason to believe that such property was used or intended to be used in violation of this act. The officer making any such sale, after deducting the expense of keeping the property, the fee for seizure and the costs of the sale, shall pay all liens according to their priority which are established at said hearing as being bona fide and as existing without the lienor having any notice or knowledge that any such property was being used or was to be used for or in connection with any violation of this act and shall pay the balance of the proceeds in to the state treasury, there to be credited to the game and fish fund. Any sale under the provisions of this section shall operate to free the property sold from any and all liens thereon. An appeal from such order of the district court will lie to the supreme court as in other civil actions. Provided further, that at any time after seizure of said motor vehicles or trailers and before the hearing herein provided for, such property shall be returned to the owner or person having a legal right to possession thereof, upon execution by him of a good and valid bond to the state of Minnesota with corporate surety in the sum of not less than \$100 and not less than double the value of the property seized, to be approved by the court in which the case is triable, or a judge thereof, conditioned to abide any order and the judgment of the court and to pay the full value of said property at the time of seizure. (Act Apr. 28, 1941, c. 498, §3.)

[100.057]

Authority to seize and confiscate certain articles is vested in game warden and not court trying case, but confiscation of motor vehicles or trailers, or motors and motor boats in commercial fishing operation is for determination of court. Op. Atty. Gen., (203e), May 19, 1941.

5547-5. Permit to take beaver causing damage.—Whenever beaver shall at any time, in any locality, be causing substantial damage to railroad right-of-way, public highway, or private property, within or without a game refuge, the commissioner of conservation may, upon receipt of a license fee of \$2.50, issue to any person as hereafter provided, a permit to take beaver causing such damage, specifying therein the number, the time and the place where the same may be taken. (Act Apr. 28, 1941, c. 551, §1.)

[100.101]

5547-6. Report to commissioner.—The permittee shall report within ten days after the taking of any beaver, the number so taken, to the commissioner or to a game warden designated by him and shall submit the skins and such other portions of all such beaver in the manner and at the time required by the order of the commissioner, to the inspection of the commissioner or warden. Thereupon the commissioner or warden shall issue and affix to each skin a distinctive

tag, stamp or seal. Licensee shall pay the commissioner a fee of \$1.00 for each tag, stamp or seal so issued. The beaver skins so taken or tagged, stamped, or sealed may be bought, sold or transported at any time upon compliance with all applicable provisions of law relating thereto. The commissioner shall keep a record of each such tag, stamp or seal, the number issued, to whom issued and the date of issue. (Act Apr. 28, 1941, c. 551, §2.)

[100.102]

Carcass of raccoon and beaver may not be sold, but carcass of muskrats may be sold. Op. Atty. Gen. (210d-6), Jan. 18, 1943.

5547-7. Violation.—Any person who shall unlawfully take, possess, transport, sell, or otherwise dispose of any beaver or any part thereof or who shall violate any of the provisions of this act or the regulations of the commissioner made hereunder or the terms of this permit, shall be guilty of a gross misdemeanor. (Act Apr. 28, 1941, c. 551, §3.)

[100.103]

5547-8. Persons under influence of liquor or narcotics may not hunt in the state.—No person whether licensed or not who is an habitual user of narcotics or who is visibly intoxicated or under the influence of narcotics shall hunt with firearms or bow and arrows any of the protected wild animals in this state. (Act Mar. 10, 1943, c. 109, §1.)

[100.035]

5547-9. Same—Penalties.—Any person convicted of a violation of this act shall be deemed guilty of a gross misdemeanor and shall be punished by a fine of not less than \$100 nor more than \$300 and by imprisonment in the county jail or workhouse for not less than 30 days nor more than 90 days. (Act Mar. 10, 1943, c. 109, §2.)

[100.035]

5547-10. Same—Convicted persons not to be licensed for five years.—Any person convicted of a violation of this act shall not be licensed to hunt with firearms or bow and arrow the protected wild animals in this state within a period of five years from the date of such conviction. (Act Mar. 10, 1943, c. 109, §3.)

[100.035]

PART IV.—BIRDS

5550. Bird dogs.—Game birds may be taken during the open season with the aid of dogs. The owner or trainer of a dog may take the same afield for the purpose of training the dog, from August 15 to April 15 following, when done so as not to inflict injury upon any game birds or quadrupeds contrary to law, provided that if such owner or trainer, while afield with such dog, carries any firearm, he shall not have any cartridges or shells, except blanks, either on his person or in his automobile. The use or trainer of dogs between April 16 and August 14 following both inclusive, in fields inhabited or frequented by game birds is prohibited. Any dog so used is hereby declared to be a public nuisance and may be summarily killed by any person. (As amended Act Apr. 24, 1941, c. 421, §1; Apr. 23, 1943, c. 581, §1.)

5551. Open season for certain game birds.—Quail, partridges or ruffed grouse, and Chinese ringneck or English pheasants may be taken and possessed in such counties or areas of the state and in such numbers and during such times in the several counties or areas between September 16th and November 30th both inclusive and in any year in any county or area and subject to such other provisions not inconsistent with law as the Commissioner may by regulations from time to time prescribe according to the conditions existing in the respective counties or areas, but nothing in this chapter shall be construed to permit the taking or killing of Canada spruce grouse, or of wild turkeys. Prairie chicken (also called pinneated grouse), white breasted (also called sharp-tailed grouse), Hungarian

partridge or chukar partridge may be taken and possessed only in such counties or areas of the State and during such times in the several counties or areas, between September 16th and November 30th following, both days inclusive, in any year in any county or area and subject to such other provisions not inconsistent with law, as the director of game and fish may by regulation from time to time prescribe so as properly to protect any of said species of game birds and prevent the undue depletion thereof, according to the conditions in the respective counties or areas; provided, that no new regulations or amendment of any existing regulation shall become effective in any season unless promulgated and published according to law on or before the first day of September next preceding such season. No hunter shall discharge any firearms at any game birds which are within the limits of any state trunk highway, except migratory game birds. (As amended Apr. 24, 1943, c. 634, §1.)

It is now permissible to hunt or shoot game birds of any kind on any public highway in state except a state trunk highway, and it is permissible for a hunter standing upon a trunk highway to shoot birds which are outside limits of highway, subject to other applicable laws. Op. Atty. Gen., (210a-4), Oct. 25, 1939.

5552. Limit of birds taken.—A person may take during the open season not to exceed 10 quail, and not to exceed 5 partridge or ruffed grouse, and not to exceed 4 pheasants, only one of which may be a female, and not to exceed 5 prairie chickens or pinneated grouse, white breasted or sharp-tailed grouse in one day. No person shall have more than 15 quail, 15 partridge or ruffed grouse, 12 pheasants only 4 of which may be females or 10 prairie chickens or sharp-tailed grouse in the aggregate of both kinds in the possession at any one time. (As amended Apr. 24, 1943, c. 634, §2.)

A man taking children between ages of seven and fourteen hunting may not shoot limit for children as well as himself. Op. Atty. Gen. (210D-7), Oct. 3, 1941.

5556. Manner of taking water fowl.

A 410-gauge or other shotgun may not be used in shooting of migratory birds when loaded with a single solid shot. Op. Atty. Gen. (210d-7), Nov. 26, 1941.

5562. Unprotected birds.

Domestic pigeons and doves are not included within meaning of wild animals. Op. Atty. Gen. (210d), Dec. 24, 1942.

PART V.—FISH

5563. Bait.—Minnows for bait may be taken at any time with a net, trap or seine; provided, that immature game fish and carp shall be carefully sorted out at the time of taking and the game fish at once returned to the water and the said carp at once destroyed; provided further, that no net or seine used for the taking of minnows shall be more than 25 feet in length or more than four feet in depth. Minnows as defined in Mason's Minnesota Statutes of 1927, Section 5649, paragraph 12, may be bought and sold. Provided, however, no minnows shall be taken with a net, trap or seine in waters inhabited by trout. The use of game fish except yellow perch for bait is prohibited. The sale, or transportation of live or preserved minnows imported from other states is prohibited for any purpose. (As amended Act Apr. 21, 1941, c. 331, §1.)

Persons over 16 years of age dealing in live native minnows for bait purposes must procure a license. Laws 1941, c. 364.

Phrase "waters inhabited by trout" means those which presently support trout, and does not include those which at one time or another may have been stocked or may have supported trout. Op. Atty. Gen. (211c-13), Sept. 3, 1942.

5563a. Commissioner of Conservation may shorten season for taking of game fish.—When the Commissioner of Conservation, after investigation by the Director, finds that game fish inhabiting any of the waters of this state require additional protection to that now given by law, he may, by an order giving thirty days public notice, shorten the season for the taking of game fish in such prescribed waters by

angling through the ice, provided, however, the authority hereby granted may not be exercised so as to prohibit angling during the winter months on more than fifty per cent of the waters of any county at any given time. (Act Feb. 20, 1943, c. 61, §1.)

[101.135]

5563b. Order shall have the force of law.—Any order issued by the Commissioner pursuant to this section shall have the force of law and the penalties prescribed for the violations of the laws relating to game and fish shall follow and be applicable to violations of any such order. (As amended Feb. 20, 1943, c. 61, §2.)

[101.135]

5565. Open season for trout.—Trout (except lake trout) may be taken by angling and thereafter possessed between May 1 and September 1 following, both days inclusive. A person may not take to exceed 15 such trout in one day, nor have in possession more than 25 such trout or 20 pounds thereof at any one time. The use of three artificial flies in trout fishing is permitted. Such trout may not be bought or sold at any time. No such trout may be taken by the use or with the aid of artificial light of any kind, including bonfires, automobile headlights and spot lights. No such trout may be taken between the hours of nine P. M. and one hour before sunrise. (As amended Act Apr. 24, 1941, c. 424, §1.)

War time schedule to be disregarded in respect to hours for taking game or fish where prescribed by statute. Op. Atty. Gen. (208A-3), Feb. 19, 1942.

5568. Open season for certain fish.—Wall-eyed pike, saugars or sand pike, great northern pike or pickerel, and muskellunge may be taken by angling and thereafter possessed between May 15 and February 15 following, both inclusive. Provided, however, there shall be no authority to change by executive order or order by the commissioner of conservation the closing date above specified.

A person may take not to exceed eight such pike, saugars or sand pike, great northern pike or pickerel, or two such muskellunge in a day, and may have not to exceed 12 such pike, saugars or sand pike or great northern pike or pickerel in his possession at one time. Provided, however, that the daily and possession limits of such species shall remain at eight per day for pike, saugars or sand pike, great northern pike or pickerel or two muskellunge per day and the possession limit shall remain at 16 pike, saugars or sand pike or 20 great northern pike or pickerel with respect to all fish taken from boundary waters between the state of Minnesota and the possessions of the Dominion of Canada until such time as the Canadian Provinces bordering upon such boundary waters shall have reduced the limits, in which event the director of game and fish may by order prescribe similar limits to apply in Minnesota territorial waters. Yellow perch may be taken and possessed at any time without limit as to number; provided, that the commissioner of conservation may, whenever he deems it necessary to prevent the undue depletion of perch in any water, fix by regulation a limit of 25 perch per day therein. All such fish taken, regardless of size, may be retained in possession and counted.

Wall-eyed pike, saugars or sand pike, great northern pike or pickerel, and muskellunge, except those taken from waters which may be open for the sale thereof by the director of game and fish may not be bought or sold at any time. Great northern pike or pickerel may be taken by spearing through the ice between December 1 and March 1 following, both inclusive and such fish so speared may be possessed during said time. (As amended Act Apr. 28, 1941, c. 489, §1.)

This section as amended by Laws 1939, chapter 424, must prevail over §5640, as amended by Laws 1939, chapter 269. Op. Atty. Gen., (211B-2), Oct. 25, 1939.

5570. Open season for crappies.

This section as amended by Laws 1939, chapter 424, must prevail over §5640, as amended by Laws 1939, chapter 269. Op. Atty. Gen., (211B-2), Oct. 25, 1939.

5574. Open season for certain rough fish.—Carp, dogfish, redhorse, sheepshead, suckers, eelpout, garfish, bullheads of any size, whitefish not less than 16 inches in length, and buffalo fish of not less than 15 inches in length may be taken by angling, except during March and April, or by spearing through the ice between December 1st and March 1st following, both inclusive, and possessed, without limit, unless otherwise specially provided except that it shall be unlawful for any person to have in his possession more than 50 bullheads so taken at any given time. Such fish may be bought or sold in any quantity at any time. Provided, however, that the director of game and fish may allow the use of artificial lights in spearing rough fish and in such waters as he may deem proper. Provided, further, that the director of game and fish may allow the taking of suckers, redhorse, catfish, and carp, by angling at any time in the Root river from the east city limits of the city of Rushford in Fillmore county, Minnesota, to the Mississippi river. (As amended Act Apr. 16, 1941, c. 239, §1; Act Apr. 12, 1943, c. 403, §1.)

Bullheads may be speared only through the ice either with or without a dark house during seasons provided for such spearing, and not otherwise. Op. Atty. Gen., (211c-2), May 22, 1941.

Director has authority to require bullheads to be dressed before being brought to weighing station, but it is doubtful that he may require by regulation that all persons buying bullheads from licensed fishermen furnish invoices or reports showing where and to whom fish were sold. Op. Atty. Gen. (211c-2), Aug. 5, 1942.

5574a. Same—Daily limit.—A person may take not to exceed ten catfish, by angling or otherwise, in any one day and shall not have more than 15 catfish in possession at any one time. (Act Apr. 16, 1941, c. 239, §2.)

5574-1. Open season for certain fish.

Bullheads may be speared only through the ice either with or without a dark house during seasons provided for such spearing, and not otherwise. Op. Atty. Gen., (211c-2), May 22, 1941.

5574-2. Artificial lights may be used.

Bullheads may be speared only through the ice either with or without a dark house during seasons provided for such spearing, and not otherwise. Op. Atty. Gen., (211c-2), May 22, 1941.

5574-5 and 5574-6. [Repealed.]

Repealed. Laws 1943, c. 229, §8.

Director has authority to require bullheads to be dressed before being brought to weighing station, but it is doubtful that he may require by regulation that all persons buying bullheads from licensed fishermen furnish invoices or reports showing where and to whom fish were sold. Op. Atty. Gen. (211c-2), Aug. 5, 1942.

5579. Limit of catch.

Bullheads must be counted within aggregate bag limits applying to protected species. Op. Atty. Gen., (211c-2), June 4, 1941.

5581. Use of explosives prohibited.—Fish shall not be taken by means of explosives, drugs, poisons, lime, medicated bait, fish berries, or other deleterious substance, or by nets, traps, tipups, trot lines, wire strings, ropes or cables, except where otherwise expressly provided by this chapter. Possession of any of such substances or contrivances by any person on the waters, shores, or islands of this state, shall be presumptive evidence that the same are possessed for use in violation of this section. It shall be unlawful to have in possession fish nets, except minnow nets, landing nets and dip nets and all nets held in stock for sale by dealers, unless tagged and licensed by the game and fish director. Such tags and licenses shall be for the current year. Whoever violates the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$50.00 nor more than \$100.00 or by imprisonment in the county jail for not less than 30 days. (As amended Act Apr. 17, 1941, c. 290, §1.)

Contract fishermen and licensed commercial fishermen must have nets tagged. Op. Atty. Gen., (211a-8), May 14, 1941.

Owners of nets must procure tags for current calendar year for all nets whether to be used or not. Op. Atty. Gen. (211a-8), Feb. 23, 1943.

5585. Open season for dark houses and fish houses.

—Dark houses, fish houses or shelters to protect a person fishing through the ice to take by spearing or angling, pickerel, carp, dogfish, buffalofish, whitefish, tullibees, sheepshead, bullheads, catfish, eelpout, garfish, suckers and redhorse, may be used from December 1 to March 1, following, both inclusive, in all waters of this state, including those over which Minnesota has concurrent jurisdiction with other states, only under license from the director of game and fish for which a fee of \$1.00 shall be paid. Such license shall be granted by the director only on satisfactory evidence that such dark house or fish house will be used by the applicant for taking fish for domestic or personal use, and not for commercial purposes, provided, that carp so caught may be bought and sold at any time. Not more than one dark house or fish house shall be used by any one person, and every licensee shall have his license on his person while fishing in a dark house or fish house. The number of the license shall be plainly marked on the exterior of the dark house or fish house. Licenses to erect dark houses or fish houses on certain lakes may be denied by the director when in his opinion conditions based upon factual data justify such denial, but not more than 50 per cent of the waters of any given county may be closed in any one year under the authority here granted to deny licenses on certain lakes. (As amended Act Apr. 24, 1941, c. 417, §1.)

Bullheads may be speared only through the ice either with or without a dark house during seasons provided for such spearing, and not otherwise. Op. Atty. Gen., (211c-2), May 22, 1941.

5586. Open season for whitefish and herring—Netting license—Tags on nets.—

Subdivision 1. Whitefish and tullibees may be taken by means of gill nets of the sizes herein specified from such inland waters of the state as shall have been first declared open by order of the commissioner of conservation, upon the recommendation of the director of game and fish, between October 15 and December 25 following, both inclusive, unless the commissioner shall set the date of opening at a later date in certain lakes, and fresh water herring may be taken by means of gill nets of the sizes herein specified from such inland waters of the state as shall have been first declared open by order of the commissioner of conservation, upon the recommendation of the director of game and fish, between November 1 and January 10 following, both inclusive, in inland lakes of the state, for private use or consumption, but not for sale, provided a license to do so shall be first obtained from the commissioner.

Subdivision 2. Said nets shall not exceed 100 feet in length nor three feet in width and the size of mesh for taking herring shall not be less than one and three-fourths inches, extension measure, and the size of mesh for taking whitefish and tullibees shall not be less than three and one-half inches, extension measure.

Subdivision 3. Such licenses shall be procured from the commissioner. The applicant shall make a written application to the commissioner on a form prepared by him stating (a) his name and residence, (b) the approximate location where it is proposed to set said nets, (c) the number and size of nets to be used, and shall pay as a license fee the sum of one dollar for each net to be used.

Subdivision 4. Said nets shall not be set any other place than that designated in the application, unless the written consent of the commissioner be first procured. Said nets shall not be set in water deeper than six feet. A pole or stake shall be set at one end of each net so as to project at least two feet above the surface of the water. No nets shall be set nearer together than 50 feet, nor shall any net be set in a lake not known to contain whitefish, tullibees or herring. Not more than two nets shall be used by any one licensee.

Subdivision 5. Marked metal tags, to be furnished by the commissioner, shall be attached by the licensee to each net used by him in such fishing and shall be kept thereon during all the time these nets are in use. (As amended Act Mar. 28, 1941, c. 81, §1.)

An individual may obtain not more than one license, which may be for either one or two nets, and under one license may use two herring nets each 100 feet long or one herring net and one whitefish and tullibee net, or two whitefish and tullibee net. Op. Atty. Gen. (211a-8), Oct. 28, 1942.

5587. Open season for frogs. [Repealed.]

Repealed. Laws 1943, c. 621, §2.

5587-2. Open season for frogs.—Native frogs of any size may be taken and possessed at any time, except during the months of April and the first 15 days of May. No native frogs may be bought, sold, or transported for sale at any time, except that such frogs, not exceeding six inches in length, measured from tip of nose to tip of hind toes, legs fully extended, legally taken, or frogs of any size raised on regularly and duly licensed frog farms, may be bought, sold and transported for angling purposes only, within the state of Minnesota. It shall be unlawful to use cloth screens or other similar contrivances and pitfalls in catching frogs, except upon regularly and duly licensed frog farms. Bull frogs, or parts thereof, lawfully taken outside of the state, may be imported into this state and may be possessed, sold and transported for any purpose within or without the state at any time. Provided, the taking of frogs may be prohibited in such areas of the state and during such periods as the commissioner of conservation may by order prescribe. Provided further, that no person shall be permitted to take or possess frogs unless legally entitled to take fish within the state, and shall not be entitled to possess more than 150 frogs. (Act Apr. 24, 1943, c. 621, §1.) [101.271]

5587-3. Law repealed.—Mason's Supplement 1940, Section 5587, is hereby repealed. (Act Apr. 24, 1943, c. 621, §2.)

5588. Turtles and tortoises.—Turtles and tortoises may be taken, possessed, bought, sold and transported in any manner at any time, provided, that every net, trap, or other device used in the taking of turtles or tortoises in any of the public waters of this state shall be so constructed as freely to permit the escape of fishes through openings having at least diameter of not less than three and one-half inches, or, in case of a net, having a mesh of not less than three and one-half inches bar measure or seven inches extension measure; provided further, that any fish which may be caught in any such net, trap, or other device shall be promptly released and returned to the water unharmed. The director of game and fish, however, may, by duly published order, prohibit the taking of turtles during such periods as he may deem necessary from any waters of the state in which he is conducting operations in aid of the fish propagation program. (As amended Act Feb. 10, 1943, c. 27, §1.)

5592-12. Open season for certain fish in Lake of the Woods.

Bullheads may be speared only through the ice either with or without a dark house during seasons provided for such spearing, and not otherwise. Op. Atty. Gen. (211c-2), May 22, 1941.

PART VI.—COMMERCIAL FISHING

5595. Netting in certain interstate waters.

Cost of warden supervision of commercial fishermen in Mississippi and Lake Pepin may be charged against either law enforcement account or rough fish removal revolving account. Op. Atty. Gen. (208b-2), May 5, 1942.

5597. Netting in Mississippi River—License.—Subdivision 1. Pound nets with leaders not exceeding 75 feet in length; seines not exceeding 300 feet in length, dip nets and set lines having not more than 300 hooks, may be used in the flowing waters of the Mississippi River, from the Falls of St. Anthony to a

point 1,000 feet below the St. Croix River, and in the flowing waters of the Minnesota River from its mouth to Mankato, to take sheepshead, redborse, dogfish, buffalofish, catfish, carp and suckers, except from April 15th to June 16th, both dates inclusive, provided a license shall be first procured for that purpose from the commissioner. Seines so used shall have meshes of not less than 2½ inches on the bar and not less than 5 inches when extended, and shall not be used within 500 feet of the mouth of any stream. The applicant shall make a written application to the commissioner stating (a) his name and residence and (b) the place where it is proposed to use nets or seines and shall pay a license fee of five dollars for each pound or dip net licensed to be used, the sum of ten dollars for each seine net licensed to be used, and the sum of one dollar for each set line so licensed. The licensee shall not change the location of his net or seine from the place specified in his application without notifying the commissioner to that effect. No person shall use more than one set line.

Subdivision 2. Set lines having not more than 10 hooks may be used in the flowing waters of the Minnesota River from Mankato to its junction with the Mississippi only at such a place as shall be designated in the application for license therefor. The license fee shall be \$1.00 and no person shall use more than one such set line. Its location shall not be changed except upon notice to the commissioner and his approval or the approval of his agent. Such lines may be staked only at one end. No fish, except those listed in subdivision 1 hereof, shall be taken under such license. (As amended Act Apr. 22, 1943, c. 575, §1.)

5598. Open season for fishing.—Any variety of fish, except black bass, rock bass, muskellunge, crappies, sturgeon and sunfish, may be taken by residents of Minnesota who are citizens of the United States, by means of pound nets, gill nets and fyke nets, except during the months of January to May, inclusive, in Lake of the Woods and during the months of November, April and the first 15 days in May in Rainy Lake and Namekan Lake, provided a license to do so shall first be obtained from the director of game and fish; provided that if the season for the commercial taking of any such fish shall be open in the Canadian portion of Rainy Lake and Namekan Lake during any time when the season is closed in the Minnesota portion thereof, as herein provided, the director of game and fish may, in his discretion, open the season in the Minnesota portion of said waters during all or any part of such Canadian open season. Provided further the director of game and fish may, by order, prohibit the taking of tullibees during the months of November and December from Lake of the Woods whenever the numbers of said fish are reduced to a point where in his judgment the additional protection so extended is necessary to protect that species against undue depletion.

Subdivision 1. Such license shall be procured from the director of game and fish. The applicant shall make a written application to the director of game and fish, stating the location in which he desires to fish, size, and kind of each net he proposes to use, and shall pay the following license fees:

(a) For each pound net, the sum of \$35.00.

(b) For fyke nets with four-foot hoop or less, the sum of \$5.00, over four to six-foot hoop the sum of \$10.00, over six to eight-foot hoop, the sum of \$15.00;

(c) Provided, that in Lake of the Woods the fees for fyke nets shall be as follows, according to the height of the wings and lead, based on whichever thereof is the highest, four feet or less \$5.00, and an additional \$5.00 for each additional two feet or fraction thereof, but not exceeding \$25.00 for any one net.

(d) For each 100 feet of gill net, the sum of \$1.50.

(e) In addition to the foregoing fees, each licensed fisherman on the Lake of the Woods shall

pay the sum of \$20.00 each year, which sum shall be so earmarked when remitted to and deposited in the state treasury and credited to the proper fund as to be available only for the maintenance and operation of the state-owned fish hatchery located at Beaudette, Minnesota, in Lake of the Woods county, and said sum so earmarked may be used only for the operation and maintenance of said hatchery.

If a license is revoked or cancelled, it shall not be issued to any other applicants during the year for which it was originally issued. No license herein provided for shall be granted an applicant until the director of game and fish is satisfied that such applicant has equipped himself in accordance with the requirements of this section as hereinafter provided.

Subdivision 2. The size of the nets and the size of mesh of nets shall be as follows: Pound nets, not less than one and one-half inches bar measure or three inches stretched measure in the pound. Pound nets may be set in strings in Lake of the Woods, but there shall not be more than two nets to each such string. The shore lead shall not exceed 60 rods and the leads between the pots shall not exceed 50 rods. A licensee shall not set single pound nets or a string of two pound nets, less than 2,500 feet from another single pound net or string of pound nets, either of his own or from the nets of some pound net licensee. Only one pound net licensee shall fish his pound nets in the same section of water, or shall more than one such licensee operate from, sort his fish in, or in any other way pertaining to his fishing enterprise, use the same pound net station. In lakes other than Lake of the Woods, not more than one license shall be issued for any one section. A pound net licensee shall remove from the water all his pound net stakes, to which his nets have been attached, before December 30 in the year of his license. If a pound net licensee intends to operate his pound nets during the winter season he may have such stakes as he intends to use, in the water, provided he has first secured in writing the permission of the director of game and fish so to do.

Gill Nets: Not less than four inches stretched measure for taking pickerel, wall-eyed pike, saugers or sand pike and perch and not less than five inches for taking whitefish. There shall be no limitation on the length of any gill net excepting the limit provided in the license of the user, but no gill net used shall have a greater depth than 50 meshes. No gill net shall be set within 2,500 feet of a duly licensed pound net provided the pound net is in its rightful location under license, and is in operation. No person who is not himself the holder of a gill net license under this act except he be the holder of a "helper's license" as hereinafter provided shall in any manner assist any holder of such license in setting, lifting, or otherwise operating any gill net for taking fish under this act, provided, however, that in the event of the holder of a gill net license becoming incapacitated the local game warden may authorize some person to lift any net that may have been set by the holder of such license.

Fyke Nets: Not less than two inches extension measure. The hoop of such nets shall not be more than eight feet in height. The wings leading from the hoop shall not be more than 100 feet in length and said wings shall not be any higher than the hoop. It shall be optional with the user of fyke nets to use either wings or one lead, or both, but said lead shall not be more than 300 feet in length and no higher than the hoop, provided, that in waters of Lake of the Woods there shall be no restrictions as to height of leads or wings on fyke nets, and leads may not be more than 400 feet in length.

Subdivision 3. Licenses for more than six pound nets, or for more than 4,000 feet of gill nets or for more than ten fyke nets shall not be issued to any one applicant, provided that license for only 1,000 feet of gill net shall be issued to any one having a license for ten fyke nets; provided, however, that a license for only six fyke nets shall be issued to anyone having a

license for more than 1,000 feet of gill nets. No licensee shall operate more than one pound net station, nor shall such licensee be interested directly or indirectly, either by contract, lease or otherwise, in the ownership, control or operation of any other station than his own. A pound net station is the buildings, where and in which a pound net licensee keeps his fishing equipment, nets and boats, and sorts or preserves his fish. No pound net license shall be granted until the applicant shall have satisfied the director of game and fish that he has equipped himself with a pound net station. An applicant may lease a station and equipment from anyone who is not a pound net licensee. No pound net licensee shall use or permit to be used his fishing equipment, nets or boats at any such station other than his own or the one he operates under a lease, except in cases of emergency. Each licensee shall designate in his application the approximate location at which he intends to set gill, pound or fyke nets and he shall not set the same elsewhere, except with the consent of the director of game and fish. Licenses shall not be issued in excess of the following for each body of water named:

Lake of the Woods: 60 pound nets, 90,000 feet of gill nets, 100 fyke nets.

Rainy lake: 20 pound nets, 20,000 feet of gill nets.

Namekan lake: 5 pound nets, 12,000 feet of gill nets.

No person shall be granted licenses to fish both pound and gill nets, or pound and fyke nets, but holders of gill net licenses may be licensed to fish fyke nets. All licenses for pound, gill, or fyke nets shall become void and nets used under such license shall be subject to seizure and confiscation, and license revert to the state, except as hereinafter specified unless the licensee devotes his personal attention to fishing under such licenses. Unless a licensee begins fishing his nets within 30 days after the opening of the season, his license shall be cancelled by the director of game and fish. Personal attention to fishing is hereby defined to mean that the licensee shall, in person, attend to the sorting, caring for, and packing of fish caught in his nets in the station to which said fish are first brought, and to the marketing thereof, with such assistance as he may need to carry on his fishing enterprise. The provisions of this paragraph relating to the holding of both pound, gill and fyke nets by the same licensee, shall not apply to Rainy lake, and tributary waters thereof.

No license issued hereunder shall be transferable, and an assignment or attempted transfer of any rights under such license shall subject it to cancellation. No licensee shall assign, transfer, or attempt so to do, any license or any rights therein issued to him. A commercial fisherman holding a license to fish shall not sell in his own name any fish caught by another such licensee, or caught by anyone not holding such a license. Every person assisting the holder of a commercial fishing license, except another licensed commercial fisherman, in going to and from the fishing locations or who assists in setting and lifting of nets or removal of fish from nets shall have a license so to do, which license shall be designated as a "helper's license" which shall be procured by the holder of a commercial fishing license and for which there shall be paid the sum of \$1.00. Such licenses may be transferred upon application made by the holder of the commercial fishing license without any additional charge. Application for the helper's license shall be made to the director of game and fish and shall give the name and residence of the applicant, name of the person holding the commercial fishing license employing him, if a resident of Minnesota and a citizen of the United States. No such license shall be issued for any non-resident or for any alien who has not duly declared his intention of becoming a citizen of the United States or who has failed to qualify as a citizen within the length of time in which he may legally do so.

Subdivision 4. Numbered metal tags shall be furnished by the director of game and fish to each person to whom a license is issued. One such tag shall be attached by the licensee to each pound and fyke net and two tags to each gang of gill net, and shall be kept thereon during all the time the same are in use. The year for which the licenses are issued shall be stamped on each metal tag. Any pound, fyke, or gill nets fished without tags shall be contraband and subject to confiscation.

All gill net licenses may have double the amount of gill nets authorized for the taking of pike and for the taking of whitefish in running feet in his possession that his license calls for, but no more; but he shall at no time fish any more nets than the amount stated in his license. The director of game and fish shall issue two metal tags, numbered and stamped "A" for each 1,000 feet of gill net granted an applicant, and two tags, numbered and stamped "B" for an additional 1,000 feet of gill net the owner of a license is allowed to have in his possession. If a licensee desires to fish strings of gill nets shorter than 1,000 feet he may make application in writing to the director of game and fish for "A" and "B" tags for such length of net that he wished to operate, and the director of game and fish may issue such additional tags. These tags shall be fastened to a buoy attached to each end of each 1,000 feet of net, said buoy to extend at least two feet above water when the net is in use, with a white flag not less than 12 by 12 inches at the top end of each buoy. These tags, "A" and "B", as the case may be, shall be on the buoys of the nets that are in the water fishing and on the nets that are on the shore drying, and the tags on the gangs of nets shall be so attached as to be visible when the nets are in boxes or on the net reel. Any nets not tagged in the possession of a licensee, in his boat or building, or on his premises, shall be contraband, and the same may be confiscated.

Subdivision 5. No net shall be used or set within 500 feet of the mouth of any stream, nor any net within two miles of the mouth of the Warroad river in Lake of the Woods. The mouth of the Warroad river in Lake of the Woods is hereby designated and fixed at the outside end of the breakwater therein. No nets shall be used within two miles of the mouth of Rainy river. The mouth of the Rainy river is hereby designated and fixed at a point in the international boundary line east of the eastern extremity of Oak Point. Said limit shall not apply to Four Mile Bay. No nets shall be used within 80 rods of Morris' Gap in Lake of the Woods. Morris' Gap is hereby designated as the span of water between the easterly tip of Morris' Point and the westerly tip of Pine Island. No nets shall be used elsewhere than as stated in the license, except the written consent of the director of game and fish be first obtained. Fish houses may be erected and used in such fishing, subject to the laws relating to fish houses in other waters.

Subdivision 6. Fish so taken may be held in possession, transported, bought and sold during such fishing season, and may be transported, possessed, bought and sold, but not taken for a period of seven days after the close of the fishing season. Such fish may be frozen or cured during the open season and said frozen or cured fish may be transported, bought, and sold at any time.

Subdivision 7. No person other than the licensee or his agent, shall take or remove any fish nets duly licensed hereunder by the director of game and fish, nor remove any fish from such nets, nor shall any person knowingly injure, obstruct, disturb, or interfere with such nets. A licensee shall not, knowingly, set his fyke nets, or his gang of gill nets within 500 feet from another licensee's fyke or gill nets, provided such fyke or gill nets are in their rightful place in the water and fishing.

Subdivision 8. Written reports, on or before fifteen days after the close of each season herein named,

shall be made to the director of game and fish on blanks prepared by him, at the end of each season, stating in detail the total amount and kinds of fish caught, the amount for which such fish were sold, and the total value of each kind. A licensee who wilfully fails or neglects to make such reports shall not be granted a license, as provided for in this section, for one year thereafter.

All persons licensed to take fish for commercial purposes in international waters shall, as a condition of such licenses, when requested of them by the director of game and fish, and when it can be done in connection with licensed commercial fishing, take eggs of fish for propagation purposes under such rules and regulations as the director of game and fish may prescribe.

Subdivision 9. The director of game and fish shall grant all applications for license to fish not to exceed 100 feet of gill net or one fyke net in Lake of the Woods, and Rainy lake, for domestic use of the applicant and his family, irrespective of the provisions of the section covering the amount of gill and fyke nets to be used in commercial fishing, if the applicant is otherwise entitled to a license, but no such licenses shall be granted to any commercial fisherman.

Subdivision 10. The director of game and fish is hereby authorized to close the season when sturgeon may be taken to conform with the laws or rules of the Department of Game and Fish of the Province of Ontario, Canada.

Subdivision 11. No person, company, or corporation shall engage in the business of buying fish direct from the licensed fisherman operating under commercial fishing licenses in international waters for the purpose of shipping and reselling such fish, and no fish peddler shall engage in the business of peddling such fish until he, or they, as the case may be, shall have procured a license to do so from the director of game and fish.

Fees payable to the director of game and fish for such license shall be as follows: For a wholesale fish buyer's license who buys his fish direct from licensed fishermen, \$25.00. For a resident fish buyer's license who ships such fish from one place to another on international waters only \$10.00. For a fish peddler's license who peddles such fish with the use of a motor vehicle, \$5.00. Such fish buyers' licenses shall be issued for the commercial fishing period in international waters, but no such license shall be required by a commercial fisherman who sells or peddles his own fish. All fish buyers shall furnish to the director of game and fish such reports as he may require for statistical purposes on blanks furnished them for that purpose.

Subdivision 12. Any person, company, or corporation granted a license to buy fish shall keep books and records which shall correctly set forth the names of those persons from whom fish are bought, the amount and kind of fish bought, with the amount paid for each kind of fish.

Subdivision 13. A fish buyer's license shall at all reasonable hours allow the director of game and fish, or any authorized employee of the State Game and Fish department, to enter and inspect the premises and buildings where fish buying is being carried on under this section and to inspect the books and records of such licensee relating thereto.

Subdivision 14. No fish shall be taken in international waters, killed, possessed, bought, or sold, of less size than hereinafter provided. All such undersized fish shall be returned unharmed to the water immediately upon being taken from the net.

Whitefish, not less than 16 inches in length; wall-eyed pike, not less than 15 inches in length; and pickerel, not less than 18 inches in length; and sand pike or sauger, not less than 12 inches in length; perch, not less than 8 inches in length, bullheads, not less than ten inches in length, measurements to be made from tip of the nose to fork of tail. Pro-

vided further that in Lake of the Woods no wall-eyed pike longer than 27 inches may be possessed, bought or sold.

Subdivision 15. No one shall throw overboard, carry, leave or deposit, or cause to be thrown overboard, carried, left or deposited in international waters, upon the shore, beach, or bank or upon any island of said waters, dead fish, remains or offal of fish, or leave decayed or decaying fish in any net; provided that such dead fish, remains or offal thereof, may be buried ashore, or may be disposed of in such manner as the director of game and fish may prescribe.

Subdivision 16. A person who buys, offers to buy, sells, offers for sale, takes, possesses or transports any fish in violation of this section, or who violates any provision of, or fails to perform any duty imposed by this section, or any person who attempts to do so, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$50.00 or imprisonment in the county jail for not less than 60 days. Upon conviction of any person for any violation under any license issued to such person under this section such person shall pay a fine of not less than fifty dollars or imprisonment in the county jail for not less than 60 days, and upon conviction, any license issued to any person under this section shall become null and void, and no such license shall be issued to any such person for a period of one year from such conviction, unless the director of game and fish shall find that the re-issuance or reinstatement of any such license shall not conflict with the public interest.

Subdivision 17. Possession of any net or equipment declared illegal under the provisions of this act by any person at any place within ten miles of any portion of the Lake of the Woods, Rainy lake or Namekan lake, shall be unlawful and subject to seizure whenever found. All equipment including boats, motors, motor boats, used and possessed in violation of the provisions of this act are hereby declared to be a public nuisance and subject to seizure and confiscation in accordance with law and the provisions of this act. All motors, motor boats, declared to be a public nuisance under the provisions of this act, shall be seized and held subject to the order of the district court of the county in which the offense was committed and may be confiscated after conviction, if the court shall so direct. Provided, however, that the director of game and fish, his deputy or game wardens or agents, prior to any order directing confiscation, shall have made and filed with the court a separate complaint against such property, describing the same and charging the use thereof in violation of the provisions of this act, specifying substantially the time and place of such unlawful use. A copy of such complaint shall be served upon the defendant or person in charge of such property at the time of seizure, if any. If the person so arrested shall be acquitted, the court shall dismiss the complaint against such property and order the same returned to the person or persons legally entitled thereto. Upon conviction of any person so arrested, the court shall issue an order directed to any person known or believed to have any right or title or interest in or lien upon any such property and to persons unknown claiming any such right, title, interest or lien, describing such property and stating that the same was seized and that a complaint against the same charging violation of the provisions of this act has been filed with the court and requiring such persons to file with the clerk of said court their answer to said complaint, setting forth any claim they may have to any right or title to or interest in or lien upon any such property within ten days after the service of such order as herein provided, and notifying them in substance that if they fail to so file their answer within said time, such property will be ordered sold by the director of game and fish or his agents and the proceeds of such sale

paid in to the state treasury and credited to the game and fish fund. The court shall cause said order to be served upon any such person known or believed to have any such right, title, interest or lien as in the case of a summons in a civil action and upon unknown persons by publication as provided for service of summons in a civil action. If no answer is filed as within the time prescribed, the court shall, upon affidavit by the clerk of said court being filed in his office setting forth such fact, order such property sold by the director of game and fish or his agents and the proceeds of such sale, after deducting the expense of keeping the property and fees and costs of sale, paid in to the state treasury and credited to the game and fish fund. If answer is filed as and within the time herein provided, the court shall fix a time for hearing which shall be not less than ten nor more than 30 days after the time for filing answer expires. At the time so fixed for hearing, unless continued for cause, the matter shall be heard and determined by the court without a jury as other civil actions. If the court shall find that said property or any part thereof was used in violation of the provisions of this act, he shall order the property so unlawfully used, sold as herein provided unless the owner shall show to the satisfaction of the court that he had no notice or knowledge or reason to believe that such property was used or intended to be used in violation of the act. The officer making such sale, after deducting the expense of keeping the property, the fee for seizure and the costs of the sale, shall pay all liens according to their priority which are established at said hearing as being bona fide and as existing without the lienor having any notice or knowledge that any such property was being used or was to be used for or in connection with any violation of this act and shall pay the balance of the proceeds in to the state treasury, there to be credited to the game and fish fund. Any sale under the provisions of this section shall operate to free the property sold from any and all liens thereon. An appeal from such order of the district court will lie to the supreme court as in other civil actions.

Subdivision 18. No person shall ship by common carrier within or without the state, any fish of any variety, in any package, sack, box, crate, trunk, or other receptacle or covering unless there shall be plainly marked on the same the name and address of the consignor and consignee with the number of pounds of each kind of fish contained therein. (As amended Act Apr. 18, 1941, c. 303, §1.)

Statute prohibiting sale of certain fish or wild animals, even though they may have been taken in another country where sale is not prohibited, is constitutional. Op. Atty. Gen., (211a-9), June 17, 1941.

Sale of crappies and sturgeon is prohibited, no matter where taken. Id.

Laws 1941, c. 303, setting-up increased penalties including forfeiture of license for a first offense, does not apply to offenses committed before effective date. Op. Atty. Gen., (211b-5), June 27, 1941.

Requirement that each individual licensed commercial fisherman on Lake of the Woods own and operate his own pound net station is statutory and not a matter of regulation. Op. Atty. Gen. (211B-5), Mar. 21, 1942.

Director of division of game and fish may declare a certain area in Lake of the Woods reserved for purposes of fish propagation and prohibit therein all commercial fishing, if reasonable. Op. Atty. Gen. (211a), May 14, 1942.

Commercial fishing license on Lake of the Woods does not revert to the state when the licensee discontinued his fishing operations, early in the season after having commenced them within the 30-day period. Op. Atty. Gen. (211b-5), Oct. 9, 1943.

(1) (e).

Additional license fee provided by 1941 legislature must be paid by holders of licenses issued for calendar year 1941. Op. Atty. Gen., (209b), May 16, 1941.

(11).

Fish buyers or peddler's license are not required where fish are purchased in Canada, but this does not mean that they need not comply with local peddling ordinances or with provisions for obtaining a food dealer's license where applicable. Op. Atty. Gen., (209), May 21, 1941.

(17).

Authority to seize and confiscate certain articles is vested in game warden and not court trying case, but confiscation of motor vehicles or trailers, or motors and

motor boats in commercial fishing operation is for determination of court. Op. Atty. Gen., (208e), May 19, 1941.

5599. Lake Superior fishing—Herring and trout—Open season.—(A) * * * * *

Subdivision 1. The size of mesh of nets shall be fixed as follows:

(a) Gill nets for taking herring of not less than 2 $\frac{3}{8}$ -inch mesh, extension measure, when in possession and measured from center of knot to center of knot, on and after July 1st, 1935, but of not less than 2 $\frac{3}{8}$ -inch mesh, flexible rule measure, on and after July 1, 1943. Flexible rule measure shall mean distance between the extreme angles of any single mesh and such measurement shall be taken between and inside the knots with a flexible steel gauge constructed and used as prescribed by the National Bureau of Standards as hereinafter defined. All measurements of the mesh of gill nets or gill netting shall be made by inserting in the mesh parallel with the selvage, a gauge made of spring steel, free from rust, of a length equal to the number of inches prescribed in this order for the mesh measured. The ends of the gauge shall be free of sharp edges or burrs. The gauge shall be straight and shall not be graduated, and any necessary markings shall be placed near the ends of the gauge. The length of the straight gauge, measured parallel with the long edge, shall not at any point exceed or be less than the prescribed length by more than one-thousandth (.001) of an inch. Its width at any point shall not exceed nine-sixteenths of an inch or be less than seven-sixteenths of an inch. Its thickness shall be such that when it is set vertically on a solid anvil with its upper end loaded with a dead weight between seven and one-half and eight and one-half ounces, the gauge shall deflect at its middle one-tenth of its length. The gauges to be used for measuring the mesh of gill nets or gill netting as provided by this order shall be certified and approved by the National Bureau of Standards and shall be approved also by the conservation commissioner.

In gauging a mesh, the flexible gauge shall be held only by the ends and bent between thumb and forefinger, the bent rule shall be then inserted in the mesh parallel with the selvage and with the collapsed mesh, and finger pressure shall be released immediately, not gradually. If the gauge does not straighten out completely under its own tension within two seconds after it is released in the mesh, without slipping a knot or breaking the twine, the mesh shall be considered unlawful, and if the majority of ten or more meshes selected at random by the enforcement officer from any part or parts of the gill net or from the entire gill net or from any gill netting being gauged are found to be unlawful, the gill net or gill netting shall be seized and confiscated. The meshes to be gauged shall be at least three meshes removed from the selvage or side lines, shall not be stretched or manipulated in any way prior to or after the insertion of the gauge, and the same mesh shall not be gauged more than once.

(b) Gill nets for taking lake trout, pickerel and whitefish, not less than 4 $\frac{1}{2}$ inches mesh, extension measure, when in possession, and measured from center of knot to center of knot, but of not less than 4 $\frac{1}{2}$ -inch mesh, flexible rule measure on and after July 1, 1943.

(c) Gill nets for taking ciscoes, not less than 2 $\frac{3}{8}$ inches mesh, flexible rule measure, when in possession and measured from center of knot to center of knot; Providing, that whenever nets set for the purpose of taking ciscoes shall catch more than 10% of lake trout less than 17 inches in length, or whitefish less than 16 inches in length, such nets shall be deemed illegally set and shall be moved from the waters in which they were set, upon notice from the director of game and fish or his representative. Nets for taking ciscoes shall be set in water not less than 40 fathoms in depth.

(d) Bait nets for taking chubs and live bait, not less than 1 $\frac{1}{2}$ nor more than 1 $\frac{3}{4}$ -inch mesh, flexible rule measure, such nets to be set in not less than 40 fathoms, to be set only on the bottom, and to be used only between March 15 and August 1 following of each year. Provided further that whenever nets set for the purpose of taking bait shall catch any lake trout, their location shall be moved until waters unfrequented by trout have been reached or located.

(e) All nets permitted to be used under the provisions of this chapter, shall, when set for fishing purposes be properly marked at the ends of such nets with proper buoys, and the licensee's number shall be plainly marked on any buoy indicating the location of any net set for taking of fish. All nets set in Lake Superior waters under the jurisdiction of this state having a mesh less than permitted by this chapter and all nets having a mesh less than permitted by this chapter found on or within premises commonly used for the receiving and marketing of fish from Lake Superior waters, and including fish receiving stations, sheds, warehouses and docks, are hereby declared illegal and subject to confiscation by the director of game and fish or his representative and may summarily be destroyed.

Subdivision 2. Application for license.—Such license shall be procured from the director of game and fish. The applicant shall make a verified written application to the director of game and fish on a form prepared by him, stating: (a) His name and residence; (b) The period of time the applicant has resided in the county in which he desires to fish, and whether a citizen of the United States. Such license shall be designated as a "Master's License" and for which he shall pay the sum of \$10.00. Every person assisting the holder of a "Master's License" in going to and from the fishing locations or who assists in the setting and lifting of nets or in the removal of fish from such nets, unless he shall be the holder of a "Master's License", shall have a license so to do which license shall be designated as a "Helper's License," which shall be procured by the holder of a "Master's License" and for which there shall be paid the sum of \$5.00; such licenses may be transferable; and shall be transferred upon application made by the holder of a "Master's License" without any additional charge. Application for "Helper's License" shall be made to the director of game and fish and shall give: (a) The name and residence of the applicant; (b) Name of person holding "Master's License" employing him; (c) Whether a resident of Minnesota, and (d) Whether a citizen of the United States. "Master's Licenses" shall not be transferable and shall be issued for one fishing season only, and provided that aliens who have duly declared their intention of becoming citizens of the United States and who have not failed to qualify as citizens within the length of time in which they may legally do so, shall be entitled to "Helper's Licenses"; Provided, that no person shall be entitled to receive a "Master's License" unless such person has been a bona fide resident of the State of Minnesota for at least one year and a resident of the county where he desires to fish for at least 90 days. The holder of a "Master's License" shall be entitled to fish in any waters under the jurisdiction of the State of Minnesota.

(a) For the purpose of taking the eggs and milt of lake trout the director of game and fish may issue special permits to duly licensed Lake Superior commercial fishermen to take lake trout during the closed season under such rules and regulations as he may prescribe. Lake trout so taken may be sold or otherwise disposed of by the permittee. Such permits shall be issued for a fee of \$1.00 for each 1,000 feet of gill net authorized to be used and may be revoked at any time by the director upon written notice to the permittee.

(b) All sums received for the special permits authorized under subsection (a), and all of the net fees

provided in Section 1 shall be earmarked when remitted to and deposited in the state treasury and available only for the maintenance and operation of the state-owned fish hatchery located at French River.

(c) The commissioner of conservation is authorized and he shall have the power to make any and all regulations for the taking of fish by commercial fishermen in Lake Superior, and when made, such regulations shall supersede any previously existing provisions. (As amended Apr. 22, c. 379, §§1, 2; Apr. 9, 1943, c. 370, §1.)

Subdivision 3 to 10 * * * * *

This section is controlled by §5599-5 as to size of fee to nonresident commercially fishing in Lake Superior. Op. Atty. Gen. (209b), Oct. 15, 1941.

Fish buyer's license is required to authorize purchase of fish roe from Lake Superior commercial fishermen. Op. Atty. Gen. (209b), Dec. 5, 1942.

Subd. 2.

Amended. Laws 1943, c. 370, §1.
Number of spawn takers' permits in Lake Superior may be limited under reasonable restrictions. Op. Atty. Gen. (209b), July 22, 1943.

Subd. 8.

Fish buyers or peddler's license are not required where fish are purchased in Canada, but this does not mean that they need not comply with local peddling ordinances or with provisions for obtaining a food dealer's license where applicable. Op. Atty. Gen., (209), May 21, 1941.

5599-1. Commercial fishing in boundary waters—Negotiations with South Dakota or Iowa.—The game and fish director of the State of Minnesota is hereby authorized to enter into negotiations with the proper authorities of the states of South Dakota or Iowa relative to commercial fishing in boundary waters between the State of Minnesota and the states of South Dakota or Iowa, and adopt such rules or make such contracts as may be found necessary governing the letting of contracts for commercial fishing and providing for the inspection and division of proceeds and for regulating all necessary matters relating to such commercial fishing in such boundary waters. (As amended Act Apr. 19, 1941, c. 316, §1.)

[102.08]

5599-2. Same—Contracts by game and fish director.—In the event that no agreement can be made or rules adopted between the game and fish director of Minnesota and the proper authorities of South Dakota or Iowa relative to commercial fishing in boundary waters, then and in that event the game and fish director of Minnesota may make contracts for commercial fishing on a percentage basis in such boundary waters and provide for the supervision, inspection and regulation thereof, and in such contract or regulation conform so far as may be deemed necessary with the contract or regulations observed in the states of South Dakota or Iowa relating to such boundary waters. (As amended Act Apr. 19, 1941, c. 316, §2.)

[102.09]

5599-4. Same—Modification or change of open season.—The season provided in Mason's Supplement 1940, Section 5599 (A) for the taking of herring, lake trout, ciscoes, pickerel, or whitefish may be modified or changed from time to time by order of the commissioner of conservation, upon recommendation of the director of game and fish so as to correspond with the season for taking such fish or any species thereof provided by Wisconsin law. (Added Act Apr. 22, 1941, c. 379, §3.)

[102.07(1)]

5599-5. Same—Licenses—Residents of adjoining states.—Residents of the states of Wisconsin and Michigan who are citizens of the United States may procure a commercial fishing license to take such fish as are enumerated in Mason's Supplement 1940, Section 5599, Subdivision (A) according to law, in waters of Lake Superior lying within the jurisdiction of Minnesota, upon payment of a fee equal to the fee charged residents of Minnesota for similar privileges in waters

within the jurisdiction of Wisconsin and Michigan. (Added Act Apr. 22, 1941, c. 379, §4.)

[102.07(1)]

This section supersedes §5599 as to amount of fee. Op. Atty. Gen. (209b), Oct. 15, 1941.

No non-resident herring license in Lake Superior may be issued for a period of less than a year. Op. Atty. Gen. (209b), Dec. 8, 1941.

5604. Revolving fund for conducting state fishing operations. [Repealed.]

Repealed. Laws 1943, c. 229, §8.

Laws 1943, c. 229, §8, provides repeal of these sections by c. 229, Laws of 1943 not to be construed as repudiating or invalidating any existing contracts.

5605. Game and fish commissioner authorized to remove fish. [Repealed.]

Repealed. Laws 1943, c. 229, §8.

Director of game and fish still has authority to remove bullheads by either contract or day labor. Op. Atty. Gen. (211c-10), Oct. 28, 1941.

Rough fish may be removed by day labor under departmental supervision. Op. Atty. Gen. (211c-10), Jan. 13, 1943.

All those fish enumerated in this section may be re-gen. (211c-10), Feb. 8, 1943.

Laws 1943, c. 229, §8, provides repeal of these sections by c. 229, Laws of 1943 not to be construed as repudiating or invalidating any existing contracts.

5606 to 5609. [Repealed.]

Repealed. Laws 1943, c. 229, §8.

Laws 1943, c. 229, §8, provides repeal of these sections by c. 229, Laws of 1943 not to be construed as repudiating or invalidating any existing contracts.

Statute does not require a request for bids or letting a contract to high bidder, but bids of responsible persons may be called for. Op. Atty. Gen. (211c-2), Jan. 5, 1942.

Rough fish may be processed by the state prior to sale and may be frozen and stored and disposed of at favorable marketing periods. Op. Atty. Gen., Nov. 12, 1942.

5609-1. Removal by director of rough fish, etc. [Repealed.]

Repealed. Laws 1943, c. 229, §8.

Laws 1943, c. 229, §8, provides repeal of these sections by c. 229, Laws of 1943 not to be construed as repudiating or invalidating any existing contracts.

This act is controlling only as to species of fish named, and has no application to taking of bullheads or any other species not named. Op. Atty. Gen. (211c-10), Oct. 28, 1941.

Rough fish may be removed by day labor under departmental supervision. Op. Atty. Gen. (211c-10), Jan. 13, 1943.

All those fish enumerated in this section may be removed from Rainy Lake under departmental operations or by contract fishing. Op. Atty. Gen. (211c-10), Feb. 8, 1943.

5609-2 to 5609-7. [Repealed.]

Repealed. Laws 1943, c. 229, §8.

Laws 1943, c. 229, §8, provides repeal of these sections by c. 229, Laws of 1943 not to be construed as repudiating or invalidating any existing contracts.

Rough fish may be processed by the state prior to sale and may be frozen and stored and disposed of at favorable marketing periods. Op. Atty. Gen. Nov. 12, 1942.

5609-9. Director of game and fish may remove rough fish under certain conditions.—When, after an investigation by the director, he finds that any of the following conditions exist:

(1) That carp, buffalofish, perch, suckers, sheepshead, dogfish, eelpout, tullibees, garfish, goldeyes, bullheads, and turtles inhabit any of the public waters of this state in such numbers as to interfere with or prevent the natural propagation of game fish therein; or

(2) That such fish inhabit any of the public waters of this state in such numbers as to destroy or substantially injure wild celery, wild rice, or other aquatic plant life growing therein; or

(3) That such removal is necessary and desirable to properly cultivate and preserve any species of fish therein; or

(4) That the removal of the fish above designated and turtles will result in an improvement in the quality of such fish remaining therein and will increase the quantity thereof; or

(5) That such removal will prevent the destruction of wild celery, wild rice, and other aquatic plant life in such waters; and

(6) That such waters are not suitable for taking fish by angling; and

(7) That such removal may be undertaken and accomplished without the undue depletion of any species of fish therein; and

(8) That such removal will be in accordance with the generally accepted principles of scientific fish culture;

Then, and in such case, he may provide, by contract or by day labor under his supervision, or both, for the taking and removal of the fish designated and turtles by means of seines, nets, or any other devices at any time. (Act Mar. 30, 1943, c. 229, §1.) [102.22]

5609-10. May contract for removal of fish.—Contracts for the taking and removal of the designated fish and turtles shall be awarded to residents of the state by the director and each such resident applicant shall, when submitting his application to the director for the taking of the designated fish and turtles, file a sworn statement with the director giving his name and legal voting address, occupation, list of fishing equipment actually owned by him, value of the equipment, and the nature and years of his experience in the taking and removal of the designated fish and turtles, and what particular knowledge he possesses of the body of water he desires to fish. The director may award contracts specifying each body of water covered therein on the basis of the experience, qualifications, and equipment of the several applicants. No contract shall be entered into with any person who has been convicted of violating the laws of this state relating to wild animals within a period of one year, nor to any person who is not fully equipped and experienced to undertake successfully the taking and removal of the designated fish and turtles. No contract shall be transferable nor shall any transfer or assignment thereof be valid. Based upon the size, quantity, and quality of the designated fish and turtles to be taken and removed, size of lake or stream to be fished, depth of water therein, topography of bed, and kinds and sizes of nets which may be successfully used therein, the director may award fishing contracts on a percentage basis, based on the gross proceeds received from the sale of the designated fish and turtles. (Act Mar. 30, 1943, c. 229, §2.) [102.22]

5609-11. May make rules and regulations.—The director is hereby granted authority to prescribe reasonable rules and regulations covering the methods and equipment used for the removal of such fish and each contractor shall be required to post a corporate surety bond conditioned upon his faithful observance of the terms and conditions of his contract, the rules and regulations of the director and of all the laws relating to wild animals. (Act Mar. 30, 1943, c. 229, §3.) [102.22]

5609-12. May appoint agent to dispose of rough fish.—The director may appoint either the contractor or regular employees of his division as his agents for the sale of fish and he or his agents are hereby authorized to sell all fish and turtles taken and removed hereunder at the highest price obtainable. He may employ agents to represent him in other states and may enter into contracts for the sale of an entire season's production of either live or dead fish taken from any body of water after receiving sealed bids therefor. Fish and turtles which are not marketable for food purposes may be sold or otherwise disposed of or destroyed, but in no case shall any fish or turtles taken under the provisions of this act be returned unconfined to the waters from which they were taken. Such fish and turtles may be canned, frozen or otherwise prepared and preserved for marketing or disposal, either as food or for other purposes. (Act Mar. 30, 1943, c. 229, §4.) [102.22]

5609-13. May establish pounds.—The director, or any contractor employed by him having written authority to do so, may establish pounds in any waters which are known to be infested or inhabited by carp, or may construct artificial pounds and may impound fish taken under this act therein by securely fencing these pounds or otherwise making such fish secure therein, or he may use as a pound any natural inland body of water not exceeding 100 acres in area which in the discretion of the director may be safely used for the storage of such fish without endangering other public waters. Provided that no fish may be impounded for a period longer than one year from the time they were taken. (Act Mar. 30, 1943, c. 229, §5.) [102.22]

Rough fish may be impounded only by written authority of the director and then only by his agents or contractors employed by him, and this is true even though the water used is a strictly private pound and not public water. Op. Atty. Gen. (211c-9), June 18, 1943.

5609-14. Moneys to be placed in revolving fund.—All moneys received from the sale of fish and turtles taken under the provisions of this act shall be deposited in a rough fish removal revolving fund to consist of all moneys now in the state fish revolving fund and the fish lakes improvement revolving fund. If additional moneys are needed to carry on the function of removing rough fish, they may be transferred by the director from the state fish propagation fund or the game and fish fund in his discretion. The proceeds derived from rough fish removal operations under the authority of this act shall be credited to the said rough fish removal revolving fund, and all of said sums are hereby annually reappropriated to the director of game and fish for carrying out the purposes of this act. (Act Mar. 30, 1943, c. 229, §6.) [102.22]

5609-15. Violations—Penalties.—Any contractor who violates any of the provisions of this act or the regulations of the director pertaining to the taking of fish thereunder, or the provisions of his contract and regulations of the director relating to the disposition of proceeds received from the sale of fish, or who through negligence shall cause the destruction of any game fish while conducting operations hereunder, or who shall dispose of any fish taken under any contract either by sale or otherwise without first notifying the supervising warden, shall have such contract cancelled forthwith and shall forfeit his right to secure another contract under the provisions of this section for a period of two years. (Act Mar. 30, 1943, c. 229, §7.) [102.22]

5609-16. Laws repealed—Repeal not to affect existing contracts.—Mason's Statutes 1927, Sections 5604, 5605, 5606, 5607, 5608, 5609, and Mason's Supplement 1940, Section 5609-1, Mason's Statutes 1927, Sections 5609-2, 5609-3, 5609-4, 5609-5, 5609-6 and 5609-7 and Mason's Supplement 1940, Sections 5574-5 and 5574-6, are hereby repealed, but nothing herein shall be construed as repudiating or invalidating any existing contracts issued under the laws hereby repealed. (Act Mar. 30, 1943, c. 229, §8.)

PART VII.—GAME REFUGES AND FARMS, AND STATE PARKS

5610. State game refuges—Establishment, etc.

Opening of overcrowded game refuges to hunting. Laws 1943, c. 206.

Director may instruct wardens or others to take deer when doing damage to property within boundaries of or adjacent to state game refuges. Op. Atty. Gen. (210d-2), Aug. 26, 1942.

5610a. Commissioner of Conservation may declare open territory.—Whenever the commissioner of conservation shall determine that any species of protected wild animals on any state game refuge established or existing under Mason's Minnesota Statutes 1927, Sections 5610 or 5611, has attained an abundance in excess of the capacity of such game refuge to support

or which is causing substantial damage to agricultural crops in the vicinity or is threatening the well being and continued production of such species or of other protected wild animals, he may include such refuge or any part thereof in the open territory prescribed for the taking of such species during the succeeding regular open season therefor and may prescribe any reasonable regulations for the hunting or trapping thereof. (Act Mar. 27, 1943, c. 206, §1.) [99.025]

5615. State parks—Game.

A game preserve may be vacated in same manner as its establishment, and for that purpose a petition may be considered as a request. Op. Atty. Gen. (983g), Aug. 27, 1942.

5617. Trapping fur-bearing animals in refuges; etc.

A general legal open season on beaver may not be prescribed for Superior Game Refuge. Op. Atty. Gen. (210D-1), Jan. 10, 1942.

5620-1. Red Lake Game Preserve created.

Repair of drainage ditches. Laws 1943, c. 626, §3. Fifty-year lease from government construed and effect of presidential proclamation concerning Beltrami Island resettlement area discussed. Op. Atty. Gen. (983g), Apr. 24, 1942.

5620-13 1/2. Classification and sale of forfeited lands.—All lands which have heretofore or shall hereafter become the absolute property of the state under the provisions of Mason's Supplement 1940, Section 5620-7, and are suitable for agricultural purposes shall be classified as such by the county board of the county wherein such lands are situated. No lands shall be offered for sale under the provisions of this act until their classification by the county board as agricultural lands shall have been approved by the conservation commissioner; provided however, that the county auditor may with the approval of the conservation commissioner sell any parcel or tax-forfeited land or any portion thereof to any organized or incorporated governmental subdivision of the state for any public purpose for which said subdivision to acquire property at not less than the appraised value thereof as determined by the county board. (As amended Act Apr. 16, 1941, c. 278, §1.)

5620-13 1/2 a. Appraisal.—All lands which have heretofore or shall hereafter become the absolute property of the state under the provisions of Mason's Supplement 1940, Section 5620-7, and are classified as agricultural lands shall be appraised by the county board of the county wherein such lands are situated, and such appraisal shall be filed in the office of the county auditor of such county. Provided, further, that any merchantable timber on such lands shall be appraised separately and such appraisal shall be approved by the commissioner of conservation. Such county board may reappraise any such lands whenever in its judgment such reappraisal is necessary in effectuating the provisions of this act, but no such lands shall be appraised more than once in any 12 month period. (As amended Act Apr. 16, 1941, c. 278, §2.)

5620-13 1/2 b. Sale—Notice—Parcels.—All lands so classified and appraised and remaining unsold shall be offered for sale at a public sale to be held by the county auditor at the time determined by the county board in a resolution authorizing said sale and fixing the date of the commencement thereof. The auditor shall publish a notice of the intended sale and the resolution authorizing same by publication once a week for two weeks in an official newspaper of the county, the last publication to be not less than ten days previous to the commencement of said sale. Notice of such sale shall be given in substantially the following form:

Notice of Sale of Agricultural Lands

Notice is hereby given that on, the day of, 19, at my office in in the county of I shall sell to the highest bidder the following described parcels of land in said county,

which have been forfeited to the state for non-payment of taxes, and which have been classified as agricultural lands and appraised as provided by law. Said sale be governed by the provisions of Laws 1935, Chapter 210, as amended, and by the resolution of the county board authorizing such sale, which resolution is as follows:
(Insert resolution)

| Section or Lot | Description | Twp. or Range Block |
|----------------|-----------------|---------------------|
| | Appraised Value | |
| | \$ | |
| | \$ | |

Auditor of County
Such land shall be described in the notice and offered for sale in parcels not exceeding one-quarter section in area. (As amended Act Apr. 16, 1941, c. 278, §3.)
Only one sale during each calendar year is permitted. Op. Atty. Gen., (425c-5), Oct. 6, 1939.

5620-13 1/2 c. To be sold for not less than appraised value—Possession.—Said lands shall be sold to the highest bidder and at the price not less than the appraised value thereof. Any lands not sold at such public sale may be sold by the county auditor at a price not less than the appraised value thereof. The sale shall continue until all parcels are sold or until the county board shall order a reappraisal or shall withdraw any or all such parcels from sale or until such time as the county board shall have determined by resolution adopted before giving notice of sale. Any lands remaining unsold may be included in the notice of sale and offered for sale by the county auditor in each following year until the same shall be sold, or said original list of lands may be added to annually by publishing, in the same manner as provided for the publication of the original list, the descriptions and appraised values of such additional parcels which have been classified as agricultural and which classification shall have been approved as provided by law.

The purchasers at such sale shall be entitled to immediate possession, subject to the provisions of any existing valid lease made in behalf of the state. (As amended Act Apr. 16, 1941, c. 278, §4.)

5620-13 1/2 d. May be purchased by federal entry-man or patentee or by record owner.

Section applies only to lands within Red Lake Game Refuge. Op. Atty. Gen., (425c-13), Jan. 30, 1940.
This section relates only to land within Red Lake game preserve. Op. Atty. Gen. (983m), Sept. 24, 1940.

5620-13 1/2 e. Terms of sale.—All sales under this act shall be for cash or on the following terms: at least 15 per cent of the purchase price shall be paid in cash at the time of the sale, and the balance thereof shall be paid in equal annual installments over a period of 20 years with interest at the rate of four per cent per annum payable annually on the portion from time to time remaining unpaid with privilege of prepayment of any installment on any interest date. Sales on terms shall be evidenced by a certificate issued by the county auditor in such form as the attorney general shall prescribe. The appraised value of all merchantable timber on such agricultural lands shall be paid for in cash in full at the time of sale. The county auditor shall report all sales to the state auditor.

If the purchaser shall default in the payment of any installment or of any interest when due, or shall fail to pay before they become delinquent all taxes that may be levied upon the land so purchased, the state auditor shall within six months thereafter cancel said certificate of sale. (As amended Act Apr. 16, 1941, c. 278, §5.)

Form of certificate of sale provided by attorney general. Op. Atty. Gen. (409b-3), May 15, 1941.

5620-13 1/2 g. State auditor to convey property.
Form for conveyance as provided by attorney general. Op. Atty. Gen., (410G), Sept. 29, 1939.

5620-13 1/4 i. County Treasurer to collect funds.—

The county treasurer shall collect all payments of principal and interest made under this act and shall place the same in a special fund and shall report all collections to the state auditor. There shall be transferred from such special fund to the revenue fund of the county the cost of giving the notices herein required, and there shall be paid from such fund to the members of the county board upon warrant of the county auditor \$3.00 per day for each day necessarily consumed in the classification and appraisal of the lands under this act, and mileage at the rate of five cents per mile for necessary travel; provided further, that where the county board has appointed a land commissioner under the provisions of Mason's Supplement 1940, Section 2139-25, the actual expenses of the land commissioner, together with mileage at the rate of five cents per mile for necessary travel in gathering data and information to assist the county board in making classifications and appraisals hereunder, shall be paid from said fund upon warrant on the county auditor.

The net amount remaining in said fund shall be transmitted by the county treasurer to the state auditor at the times provided for tax settlements, and shall be credited to the Red Lake game preserve fund created by said Mason's Supplement 1940, Section 5620-3. (As amended Act Apr. 16, 1941, c. 278, §6.)

5620-13 1/4 k. Cancellation of taxes and tax liens.—

After forfeiture to the state of any parcel of land lying within the Red Lake game preserve, as provided by Laws 1935, Chapter 278, the county auditor shall cancel all taxes and tax liens appearing upon the records, both delinquent and current, and all special assessments, delinquent or otherwise. (Act Apr. 16, 1941, c. 278, §7.)
[84.361]

5620-13 1/4 l. Sale or demolition of any structure.—

Until after the sale of any parcel of tax-forfeited land, whether classified as agricultural or non-agricultural hereunder, the county auditor may, with the approval of the commissioner of conservation, provide for the sale or demolition of any structure located thereon, which has been determined by the county board to be within the purview of Mason's Minnesota Statutes of 1927, Section 5961, and for the sale of salvage material, if any, therefrom. (Act Apr. 16, 1941, c. 278, §8.)
[84.362]

5620-13 1/4 m. Sale of timber.—

The county auditor may with the approval of the county board sell dead, down and mature timber upon any tract of agricultural land designated by the conservation commissioner. Such sale of timber products shall be for cash at not less than the appraised value thereof as determined by the conservation commissioner; to the highest bidder after not less than one week's published notice in an official paper within the county. Provided that any timber offered at such public sale and not sold may thereafter be sold at private sale by the county auditor at not less than the appraised value thereof. Provided, however, that the forestry practices to be followed in the cutting of said timber shall be approved by the conservation commissioner. (Act Apr. 16, 1941, c. 278, §9.)
[84.363]

5620-13a. Federal migratory waterfowl refuge at Talcot Lake.—

There is hereby ceded to the United States for the purpose of maintaining and operating a migratory waterfowl and wild-life refuge at Talcot Lake in Cottonwood County, Minnesota, all jurisdiction of the State of Minnesota over the water areas contained in the following description:

All that part of Section 19, Township 105 N., Range 38 West of the 5th Principal Meridian, in the County of Cottonwood, State of Minnesota, lying south of

Lots 2, 3, 4, 5 and lying north of the south $\frac{1}{4}$ line of said Section 19 aforesaid, reserving, however, to the State of Minnesota full and complete jurisdiction and authority over all such areas not incompatible with the maintenance and control thereof by the United States for the purposes of the waterfowl and wild-life refuge herein referred to. (Act Mar. 28, 1941, c. 87, §1.)

PART VIII.—BREEDING WILD ANIMALS AND FISH**5621. Fish raised in private hatcheries—Sale of—Permits—Spawning beds.**

Any association of sportsmen within the state may engage in the propagation of game fish for purpose of transplanting in public lakes or streams. Laws 1941, c. 137.

Holder of a private fish hatchery permit, who is operating more than one pond in different parts of the county or state, is not obliged to procure a separate permit for each body of water. Op. Atty. Gen., (211a-5), May 16, 1941.

5625-1. Permits to engage in raising wild animals.—

The owner or lessee of any lands of private waters within the State of Minnesota, suitable for breeding and propagating wild animals, fur bearing animals and game birds shall have the right to establish, operate, and maintain thereon a farm or ranch for the purpose of breeding, propagating, and dealing in such animals or game birds and their pelts or products, upon enclosing said lands or private waters or portions thereof, as hereinafter provided, and upon complying with the provisions thereof of this act and obtaining a license therefor, as hereinafter provided. The term "private waters," as used herein, shall mean all bodies of water or streams, whether meandered or not, of a normally shallow, swampy, marshy or boggy character, not navigable in fact and no longer of any substantial beneficial use to the general public, and where all of the land immediately abutting upon, surrounding or bordering on said waters, together with all riparian rights incident thereto, are owned or held under written lease from the owner by the person, firm or corporation making application hereunder. Lands or private waters to be used as a farm or ranch for raising wild animals, fur bearing animals or game birds shall have suitable enclosures approved by the Director of Game and Fish for confining the respective kinds of wild animals, fur bearing animals or birds to be raised thereon, provided that private use under this act shall not in any way interfere with the free passage of fish in the streams affected. (As amended Act Apr. 25, 1941, c. 443, §1.)

5625-5. Shipment of pelts and products—Tagging pelts, etc., sold or transported.—

When any pelts or products of any protected animals or game birds raised by any licensee under the provisions of this act are sold or transported, a tag, in duplicate form, shall be attached thereto, to be furnished by the director of game and fish to the licensee at cost, not exceeding one cent each. Such tags shall be issued for each calendar year and shall expire on December 31 in each year. Such tags so issued by the director shall be numbered consecutively and issued in duplicate and shall be executed in duplicate by the licensee, showing the date of shipment of such pelts or products of any such animals or game birds, the name and address of the person to whom shipped, the license number and the name and address of the licensee, and the kind of pelts, game birds or products so shipped. The duplicate of such tags so attached shall be mailed immediately to the Director of Game and Fish. Failure to attach such tags to any pelts raised under such license shall cause such pelts or products of any protected animals or game birds to be subject to confiscation. No wild or native deer may be taken or had in possession at any time for propagating, exhibition or pet purposes except as hereinafter authorized. All deer now contained on licensed game farms, private and public parks and zoos, and the progeny of such

deer may be bought and sold or otherwise disposed of only when alive, but before any such disposition is made the licensee shall notify the director of game and fish of the proposed disposition and if satisfactory the director shall approve such disposition and cause a tag to be placed upon the crate or container to be used in the transportation of such deer before said animal is transported. Such tag shall remain upon said crate or container at all times until it has reached its destination. A duplicate copy of said tag shall be kept and maintained in the records of the director of game and fish. Any deer of any licensed game farm, private and public parks and zoos which dies or is killed, shall be disposed of only as directed by the director of game and fish or his agent. (As amended Act Apr. 24, 1941, c. 413, §1; Act Apr. 25, 1941, c. 443, §2.)

Laws 1941, c. 413 and 443, amending this section, are both to be given effect. Op. Atty. Gen., (82p), May 9, 1941.

5625-6. Licenses—Fees.—The holder of any such license for the raising of wild animals or fur bearing animals only shall pay an annual license fee of three dollars for any such farm or ranch of ten acres or under, and an additional fee of 15 cents per acre for any additional land or waters actually devoted to the raising of wild animals or fur-bearing animals of any kind or kinds specified in the license: provided that such person may be licensed to raise both fur-bearing animals and game birds for an additional fee of \$2.00. The holder of any such license for propagating deer shall pay an additional fee of \$2.00. The holder of any such license for the raising of game birds only shall pay an annual license fee of \$5.00, regardless of the acreage involved, and for propagating deer only, shall pay an annual license fee of \$5.00. Such license fees shall be paid on or before March 1 of each year and shall expire on December 31 of each year, but shall be renewed from year to year upon payment by the licensee of the annual license fee, subject to the provisions of this act. The operation of said game bird or fur farms and the raising and propagation of such wild animals, game birds and fur-bearing animals without having secured a license so to do, and failure to comply with the terms of this act and to pay the license fee designated herein, shall constitute a misdemeanor, and any animals found upon the premises of any such game bird or fur farm shall be subject to confiscation. (As amended Act Apr. 25, 1941, c. 443, §3.)

PROPAGATION OF GAME FISH

5625-14a. Use of rearing ponds by associations lawful.—It shall be lawful for any bona fide organization or association of sportsmen within the state to engage in the propagation of game fish by use of rearing ponds, whenever the fish so raised therein or produced therefrom are used exclusively for transplanting in the public lakes and streams of this state. (Apr. 9, 1941, c. 137, §1.)

[101.153(1)]

County may not appropriate money to Isaac Walton League to assist in establishing pond. Op. Atty. Gen. (107b-1), Nov. 15, 1941.

5625-15. Brood stock obtained from game warden.—Any such organization or association may, under the supervision of the local game warden or other person designated by the director of game and fish, acquire from public waters by seining, for rearing pond propagation, such number of live brood stock and such species as may be approved by the director of game and fish; and such brood stock when so obtained may be lawfully kept and retained in possession provided the same are used exclusively for the propagation and reproduction of fish life. (Apr. 9, 1941, c. 137, §2.)

[101.153(2)]

5625-16. Nets and equipment for seining to be maintained by local game warden.—Any such organization may acquire, use and maintain such nets or

other equipment as are suitable for the proper seining of brood stock and the proper seining of said rearing ponds. Provided, however, all such equipment, the possession of which is otherwise illegal except for the provisions of this act, when not actually in use shall be kept and maintained in the custody of the local game warden. (Apr. 9, 1941, c. 137, §3.)

[101.153(3)]

5625-17. Rules and regulations.—All seining of brood stock and planting of fish reared under the provisions of this act shall be done in accordance with rules and regulations to be adopted by the director of game and fish and said director is hereby authorized and it shall be his duty to cooperate in every way with such organizations and to afford such aid and assistance in equipment and personnel as may be available. (Apr. 9, 1941, c. 137, §4.)

[101.153(4)]

Director is authorized to furnish engineering and technical assistance to sportsmen's clubs and organizations in the construction of ponds. Op. Atty. Gen. (208a), Oct. 24, 1941.

5625-18. Same; provisions.—The director of game and fish shall prescribe such reasonable rules and regulations as may be deemed necessary and advisable to give effect to the intent and purpose of this act; provided that all such rules and regulations shall be designed to encourage and foster the propagation of game fish and in the manner herein contemplated and shall be designed to encourage the devotion of voluntary services, moneys and equipment not otherwise available to the state in the propagation of game fish; and provided further that no fee shall be required from any such organization or association of sportsmen in order to engage in the activities herein set forth. (Apr. 9, 1941, c. 137, §5.)

[101.153(5)]

5625-19. Planting to be approved by director of game and fish.—All game fish reared under the authority of this act shall be planted in such public waters of the state as are selected and designated by the organization operating said rearing pond, subject, however, to the approval of the director of game and fish or his agents. (Apr. 9, 1941, c. 137, §6.)

[101.153(6)]

PART IX.—COMMISSIONER AND WARDENS

5626. Scientific collections—Permits.—Any municipal corporation, incorporated society of natural history, high school, college or university, maintaining a zoological collection and desiring to collect eggs, nests or wild animals protected by law, for scientific or exhibition purposes, shall make an application to the director on a form prepared by him for a permit, so to do. The director, when it appears that such application is made in good faith, shall without the payment of any fee, issue to such applicant, a permit to collect specimens of eggs, nests, or wild animals protected by law, under regulations to be prescribed by the director. The United States commissioner of fisheries may establish fish hatcheries in this state and may take fish eggs from the waters of this state for propagation and scientific purposes. The United States commissioner of fisheries and his duly authorized agents are hereby authorized to conduct fish cultural operations, rescue work, and all fishing and other operations necessary therefor in such manner and at such times as is considered necessary and proper by the said commissioner and his agents. (As amended Act Feb. 18, 1943, c. 40, §1.)

Director is obliged to issue permits to qualified individuals or institutions who apply therefor in good faith, although he may prescribe reasonable regulations and restrictions, but permits may not be issued to elementary schools below college or university rank. Op. Atty. Gen. (209), Aug. 20, 1942.

5630. Commissioner—General powers and duties; etc.

Laws 1941, c. 61, §1. Amended. Laws 1943, c. 189.
Laws 1943, c. 189, §1, 2, authorized commissioner of conservation to sell Redby Fish Hatchery and equipment.

Director of division of game and fish may declare a certain area in Lake of the Woods reserved for purposes of fish propagation and prohibit therein all commercial fishing, if reasonable. Op. Atty. Gen. (211a), May 14, 1942.

Authority to purchase stock from private hatchery or exchange other stock therefor is doubtful, but there is authority to purchase a fish hatchery site if there is an appropriation available for the purpose. Op. Atty. Gen. (208r), Aug. 13, 1942.

(4). Cost of publication of information or booklets cannot be paid from game and fish funds. Op. Atty. Gen. (208B-4), Aug. 15, 1941.

(5). Commissioner of conservation authorized to sell state fisheries plant and equipment, state fish hatchery and equipment and appurtenant buildings located at Redby, Minnesota. Act Mar. 12, 1941, c. 61.

5630-1. Sale or exchange of land.—Whenever lands to which title has been acquired in the name of the state, for the purpose of public hunting grounds, under the provisions of Mason's Supplement 1940, Section 5630, shall be found by the commissioner of conservation to be unsuitable for the purpose of establishing and maintaining the same as public hunting grounds and game refuges, he shall have the authority, subject to the approval of the executive council, to sell or dispose of such lands at a price not less than that for which they were purchased, or he may exchange said lands for lands of equal value that are suitable for rounding out, enlarging, filling in, or adding to areas upon which public hunting grounds have been established. (Act Apr. 24, 1941, c. 404, §1.)
[97.235]

5630-2. Proceeds of sale.—The proceeds from any sales shall be paid in to the state treasury and credited to the public hunting ground fund and are hereby appropriated and made available for the authorized uses and purposes of such fund. (Act Apr. 24, 1941, c. 404, §2.)
[97.235]

5631. Police powers of commissioner, etc.

Authority to seize and confiscate certain articles is vested in game warden and not court trying case, but confiscation of motor vehicles or trailers, or motors and motor boats in commercial fishing operation is for determination of court. Op. Atty. Gen. (208e), May 19, 1941.

Game wardens may enter and inspect locker plants where game and fish are customarily stored, without warrant, or without reasonable grounds for believing illegal wild animals are stored therein. Op. Atty. Gen. (208i-3), Sept. 18, 1941.

Enforcement of an act prohibiting sale of fire arms or ammunition in cities of state to a minor without written consent of his parents or guardian, is not a function or duty of division of game and fish or its employees. Op. Atty. Gen. (201a-8), March 18, 1943.

Warehouses and buildings operated in the business of licensed fur dealers are subject to search without warrant. Op. Atty. Gen. (208h-5), May 26, 1943.

5631-1. Shipments of wild animals.—Wild animals legally taken and possessed in Canada may be brought into Minnesota if declared through the customs and may be shipped from Minnesota to any point within or without the state by either residents or non-residents, by common carrier, provided that all such shipments shall be accompanied by a customs receipt corresponding to the number of fish or other animals contained in the shipment, and shall also bear such shipping coupons as would be required if the shipment originated in the province where the animals were taken. (Act Apr. 2, 1943, c. 284, §1.)
[97.13(10)]

5635. Obstructing commissioner—Prohibited.

Op. Atty. Gen. (199B-1), Mar. 20, 1942; note under §5636.

5636. Disposition of fines—Cost of keeping and maintaining game law violators.—All fines collected for violation of any law relating to wild animals, game birds and fish shall be paid to the county treasurer of the county where the conviction was had and one-half of said fines shall be by that officer transmitted to the commissioner, who shall pay the same into the state treasury. The remaining half of said fines shall be credited to the general revenue fund of the county; provided, however, that the board of county commissioners of any county may direct the payment of all such fines to the state treasurer and thereafter such fines shall be paid to the state treasurer. In any county where all such fines are paid to the state treasurer, the costs of keeping and maintaining prisoners for violation of any law relating to wild animals, game birds and fish, shall be paid out of the game and fish fund unless otherwise paid. The county auditor shall monthly prepare and certify a statement itemizing the costs to the county of keeping and maintaining any such prisoners, and shall submit the same to the commissioner of conservation, who shall cause the same to be paid out of the game and fish fund. (As amended, Act Apr. 22, 1941, c. 368, §1.)

Statutes divide proceeds of fine for game law violation, irrespective of what enforcement officer makes arrest and takes part in prosecution. Op. Atty. Gen. (989a-6), Oct. 4, 1940.

Provision for payment of one-half of fines collected into state treasury applies only to fines collected and does not affect general rule that statutory costs of prosecution, when not paid by defendant, shall be paid by county. Op. Atty. Gen. (208G-8), Oct. 16, 1940.

Where licensed fur dealer was arrested upon three complaints, two arising out of violation of fur law and third on charge of resisting a game warden, and was fined under each complaint, whether state was entitled to 50% of fine under last complaint depends upon which statute prosecution was based. Op. Atty. Gen. (199B-4), Mar. 20, 1942.

5637. Removal of fish from shallow lakes.—The Director of the division of game and fish may, whenever after investigation, he finds that any fish are in danger of smothering in winter by reason of the shallowness of the waters inhabited by them, take the same in any manner at any time from such shallow lakes or sloughs, and may transfer such as may be suitable for stocking purposes to other waters in this state, and may sell such as are not deemed suitable by him for stocking purposes, or the director may, by published order or notice posted conspicuously around the shores, open such waters to fishing in any manner except with the use of seines, hoop nets, fyke nets or explosives, by residents of the state of Minnesota for personal use only and not for sale. (As amended Feb. 27, 1941, c. 32, §1; Act Mar. 15, 1943, c. 136, §1.)

Lakes found in danger of smothering in winter may be opened to promiscuous fishing at any time. Op. Atty. Gen. (211d), Sept. 8, 1943.

5640. Additional protection—Governor's orders.

An actual finding of danger of depletion or extinction must be made as a basis for an order. Op. Atty. Gen., (211B-2), Oct. 25, 1939.

This section, as amended, is affected by Laws 1939, chapter 424, amending sections 5568 and 5570, relating to pike, pickerel, muskellunge and crapples. Id.

Boundary waters between Minnesota and Wisconsin defined. Op. Atty. Gen. (211d-12), Dec. 29, 1942.

PART XI.—DEFINITIONS AND CONSTRUCTION**5649. Definitions.**

Where a man residing in Texas entered employment of United States Government and was sent to Hawaiian Islands, and wife left Texas and established a residence in Minnesota for more than six months, whether husband is a resident of Minnesota while on leave of absence in Minnesota is a question of fact. Op. Atty. Gen. (209h), Aug. 11, 1942.

Word "game" includes fur bearing animals. Op. Atty. Gen. (208h-5), May 26, 1943.